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**Agreement-in-Principle  
Between the Inuit of  
the Nunavut Settlement Area  
and  
Her Majesty In Right of Canada**



(12) CA/ IA -1990 A36  
D.J. *W.W.*

**AGREEMENT-IN-PRINCIPLE**  
**BETWEEN**  
**THE INUIT OF**  
**THE NUNAVUT SETTLEMENT AREA**  
**AND**  
**HER MAJESTY**  
**IN RIGHT OF CANADA**

*Published under the joint authority of the  
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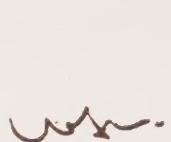
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Nunavut et Sa Majesté du chef du Canada.*

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**BETWEEN**  
**THE INUIT OF THE NUNAVUT SETTLEMENT AREA**  
**AND**  
**HER MAJESTY IN RIGHT OF CANADA**

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PREAMBLE



AN AGREEMENT-IN-PRINCIPLE

BETWEEN:

The Inuit of the Nunavut Settlement Area as represented by the Tungavik Federation of Nunavut

AND:

Her Majesty The Queen in Right of Canada.

WHEREAS the Inuit represented by the Tungavik Federation of Nunavut assert an aboriginal title to the Nunavut Settlement Area, more particularly described in the Nunavut Settlement Area Provisions, based on their traditional and current use and occupation of the lands, waters and land-fast ice therein in accordance with their own customs and usages;

AND WHEREAS the Constitution Act, 1982 recognizes and affirms the existing aboriginal and treaty rights of the aboriginal peoples of Canada, and treaty rights includes rights that may be acquired by way of land claims agreements;

AND WHEREAS the parties agree on the desirability of negotiating a land claims agreement through which Inuit shall receive defined rights and benefits in exchange for surrender of any claims, rights, title and interests based on their assertion of an aboriginal title;

AND WHEREAS the parties have negotiated this land claims Agreement-in-Principle based on and reflecting the following objectives:

to provide for certainty and clarity of rights to ownership and use of lands and resources, and of rights for Inuit to participate in decision-making concerning the use, management and conservation of land, water and resources, including the offshore;

to provide Inuit with wildlife harvesting rights and rights to participate in decision-making concerning wildlife harvesting;

to provide Inuit with financial compensation and means of participating in economic opportunities;

to encourage self-reliance and the cultural and social well-being of Inuit;

AND IN RECOGNITION of the contributions of Inuit to Canada's history, identity and sovereignty in the Arctic;

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

GENERAL



ARTICLE 1: DEFINITIONS

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## ARTICLE 1: DEFINITIONS

### PART 1: GENERAL

1.1.1 In the Agreement, except where otherwise expressly provided in this Agreement or indicated by the context:

"Agreement" means this entire Agreement, including its preamble and schedules;

"Arbitration Board" means the body described in Section 41.1.1 of the Arbitration Provisions;

"Commissioner" means the Commissioner of the Northwest Territories;

"Commissioner-in-Executive Council" means the Commissioner acting by and with the advice and consent of the Executive Council;

"conservation area" has the meaning set out in Section 9.2.2 of the Conservation Area Provisions;

"Crown" means the Crown in Right of Canada;

"Crown lands" shall have the meaning set out in the Final Agreement;

"Designated Inuit Organization" means an organization described in the Inuit Organization Provisions;

"Executive Council" means the Executive Council of the Northwest Territories;

"Final Agreement" means the agreement to be concluded by the parties based on this Agreement, as described in Section 2.2.1 of the General Provisions;

"Government" means the Government of Canada and the Territorial Government;

"harvest" has the meaning set out in Section 5.1.1 of the Wildlife Provisions;

"Inuit Settlement Lands" has the meaning set out in Section 20.1.1 of the Title to Inuit Settlement Lands Provisions;

"Inuit" means

(a) for the purpose of Sections 2.8.1 to 2.8.4 of the General Provisions, and of references of a general historical nature, all those members of the aboriginal people, sometimes known as Eskimos, that has traditionally used and occupied, and currently uses and occupies, the lands and waters of the Nunavut Settlement Area,

(b) for the purpose of all other sections of the Agreement

(i) until such time as the Inuit Enrolment List has been developed further to the Enrolment Provisions, all those persons entitled to be enrolled under those provisions,

(ii) upon development of the Inuit Enrolment List, those persons enroled from time to time under

the terms of the Enrolment Provisions;

"Inuk" means a single member of the group of persons defined as Inuit;

"laws of general application" means all federal, territorial and local government laws of general application according to common law definition;

"legislation" means a statute or regulation;

"Legislative Assembly" means the Council of the Territories as established pursuant to the Northwest Territories Act, or any successor council or councils having jurisdiction over all or part of the Nunavut Settlement Area;

"marine areas" means those parts of the Nunavut Settlement Area forming part of the sea, whether open or ice-covered;

"Minister" means a Minister of the Government of Canada or a member of the Executive Council appointed as Minister, as the context requires, responsible for the subject matter referred to;

"National Park" has the meaning set out in Section 8.1.1 of the Parks Provisions;

"the Nunavut Impact Review Board" is the body described in Section 12.2.1 of the Development Impact Provisions;

"the Nunavut Planning Commission" and "the Nunavut Planning Policy Committee" are the bodies described in

Sections 11.4.1 and 11.5.1 of the Land Use Planning Provisions;

"Nunavut Settlement Area" means the area described in Section 3.1.1 of the Nunavut Settlement Area Provisions;

"the Nunavut Water Board" is the body described in Section 13.2.1 of the Water Management Provisions;

"the Nunavut Wildlife Management Board" is the body described in Section 5.6.1 of the Wildlife Provisions of the Agreement;

"outpost camps" has the meaning set out in Section 7.1.1 of the Outpost Camp Provisions;

"Parliament" means the Parliament of Canada;

"parties" mean the Tungavik Federation of Nunavut and Her Majesty the Queen in Right of Canada;

"the principles of conservation" means those principles set out in Section 5.4.2. of the Wildlife Provisions;

"regulation" includes an order, regulation, order in council, order prescribing regulations, rule, rule of court, form, tariff of costs or fees, letters patent, commission, warrant, proclamation, by-law, resolution or other instrument issued, made or established

(a) in the execution of a power conferred by or under the authority of a statute, or

(b) by or under the authority of the Governor-in-Council or Commissioner-in-Executive Council;

"statute" means an Act of Parliament or the Legislative Assembly, but does not include regulations;

"the Surface Rights Tribunal" is the body described in Section 23.7.1 of the Entry and Access Provisions;

"Territorial Government" means the Government of the Northwest Territories, or any successor government or governments, having jurisdiction over all or part of the Nunavut Settlement Area;

"Territorial Park" has the meaning set out in Section 8.1.1 of the Parks Provisions;

"third party" means any person, natural or artificial, but does not include Government, the Tungavik Federation of Nunavut, or Designated Inuit Organizations;

"wildlife" has the meaning set out in Section 5.1.1 of the Wildlife Provisions;

"Zone I" has the meaning set out in Section 15.1.1 of the Marine Area Provisions;

"Zone II" has the meaning set out in Section 15.1.1 of the Marine Area Provisions;

Citation of Legislation

1.1.2 Citation of legislation refers to legislation as amended from time to time, except:

- (a) where a specific chapter and date are indicated; and
- (b) for greater certainty, reference to the Constitution Act, 1982 includes the 1983 amendments and any later amendments.

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## ARTICLE 2: GENERAL PROVISIONS

### PART 1: PRINCIPLES AND OBJECTIVES

2.1.1 The Final Agreement shall be based on and reflect the principles and objectives set out in the Preamble and all Articles of the Agreement.

### PART 2: COMMITMENT TO NEGOTIATE A LAND CLAIMS AGREEMENT

2.2.1 Based upon this Agreement, the parties shall continue negotiations in good faith, to conclude a Final Agreement within eighteen months of the ratification of the Agreement, which Final Agreement will be a land claims agreement within the meaning of Section 35 of the Constitution Act, 1982.

### PART 3: MERGER

2.3.1 It is the intention of the parties that the rights of the Inuit in the Final Agreement shall not merge in any legislation enacted to ratify or implement the Final Agreement.

### PART 4: NO LEGAL OBLIGATIONS IMPOSED BY AGREEMENT-IN-PRINCIPLE

2.4.1 Nothing in the Agreement imposes a legal obligation on either party.

### PART 5: ABSENCE OF FINAL AGREEMENT

Final Agreement Null and Void If Not Ratified

2.5.1 Ratification of the Final Agreement by Canada and Inuit in accordance with the Ratification Provisions of the Final Agreement is a condition precedent to the validity of the Final Agreement and, in the absence of such ratification, the Final Agreement shall be null and void and of no effect.

#### Discharge From Undertakings

2.5.2 If a Final Agreement has not been ratified by the parties within 24 months of the date of the ratification of the Agreement, the parties are released from all undertakings in the Agreement, unless otherwise agreed by the parties.

#### **PART 6: COMING INTO FORCE**

2.6.1 The Final Agreement shall come into force upon its ratification by both parties.

#### **PART 7: UNDERTAKINGS AS TO FURTHER LEGISLATIVE ACTION**

2.7.1 Government shall consult closely with a Designated Inuit Organization (DIO) in the preparation of any legislation proposed to ratify or implement the Final Agreement, including any amendments thereto. The Final Agreement may set out a process of consultation.

#### **PART 8: CERTAINTY**

2.8.1 In consideration of the rights and benefits provided to Inuit by the Final Agreement, the Final Agreement shall, subject to Section 2.8.2, contain a provision in the following terms:

"Inuit hereby:

- (a) cede, release and surrender to Her Majesty in Right of Canada, all their aboriginal claims, rights, title and interests, if any, in and to lands and waters anywhere within Canada and adjacent offshore areas within the sovereignty or jurisdiction of Canada, and
- (b) agree, on their behalf, and on behalf of their heirs, descendants and successors not to assert any cause of action, action for a declaration, claim or demand of whatever kind or nature which they ever had, now have or may hereafter have against Her Majesty in Right of Canada or any province, the government of any territory or any person based on any aboriginal claims, rights, title or interests in and to lands and waters described in (a)."

2.8.2 The application of Section 2.8.1 to traditionally used lands and waters outside the Nunavut Settlement Area shall be discussed as part of the negotiations referred to in Section 5.33.8 of the Wildlife Provisions.

2.8.3 Nothing in this Agreement constitutes an admission or denial by Canada that Inuit have any aboriginal claims, rights, title or interests in and to lands and waters as described in Sub-section 2.8.1(a) outside the Nunavut Settlement Area.

2.8.4 Nothing in the Final Agreement shall be construed to affect, recognize or provide any rights under Section 35 of the Constitution Act, 1982, for any aboriginal peoples, other than Inuit of the Nunavut Settlement Area.

2.8.5 Nothing in the Final Agreement shall:

- (a) be construed so as to deny that Inuit are an aboriginal people of Canada, or, subject to Section 2.8.1, affect their ability to participate in or benefit from any existing or future constitutional rights for aboriginal people which may be applicable to them;
- (b) affect the ability of Inuit to participate in and benefit from government programs for Inuit or aboriginal people generally as the case may be; benefits received under such programs shall be determined by general criteria for such programs established from time to time; or
- (c) affect the rights of Inuit as Canadian citizens and they shall continue to be entitled to all the rights and benefits of all other citizens applicable to them from time to time.

#### **PART 9: LANGUAGES OF THE FINAL AGREEMENT**

2.9.1 There shall be Inuktitut, English and French versions of the Final Agreement. The authoritative language or languages of the Final Agreement shall be set out in the Final Agreement.

#### **PART 10: INTERPRETATION**

2.10.1 The several Articles of the Agreement shall be read together and interpreted as one agreement.

2.10.2 The Final Agreement shall be the entire agreement and there is no representation, warranty, collateral agreement or condition affecting the Final Agreement except as expressed in it.

2.10.3 There shall not be any presumption that doubtful expressions in the Final Agreement be resolved in favour of Government or Inuit.

2.10.4 The several Articles herein and the Final Agreement shall be construed, with such modifications as the circumstances require, according to the Interpretation Act RSC 1985, Chapter I-21.

#### PART 11: TRANSFER OF POWERS

##### Transfer of Powers Within Same Government

2.11.1 Any power vested in a Minister of the Government of Canada or in a Minister of the Executive Council of the Territorial Government, pursuant to the provisions of the Final Agreement, may be transferred to another Minister of the Government of Canada, or to another Minister of the Executive Council of the Territorial Government, respectively. A DIO shall be given notice of such transfer.

##### Transfer of Powers Between Governments

2.11.2 Nothing in the Final Agreement shall restrict the authority of the Government of Canada to devolve or transfer powers or jurisdiction to the Territorial Government, provided that the devolution or transfer shall not abrogate or derogate from any rights of Inuit

✓

in the Final Agreement.

Creation of a Province Not to Abrogate or Derogate from Rights

2.11.3 The Government of Canada undertakes that the creation or extension of a province that encompasses all or part of the Nunavut Settlement Area shall not abrogate or derogate from any rights of Inuit in the Final Agreement.

**PART 12: INVALIDITY**

2.12.1 If any provision of the Final Agreement is found by a court of competent jurisdiction to be invalid, Government and Inuit shall make best efforts to amend the Final Agreement to remedy the invalidity or replace the invalid provision.

2.12.2 Neither party shall have a claim or cause of action based on a finding that any provision of the Final Agreement is invalid.

2.12.3 Neither Government nor any Inuit eligible to be enrolled shall challenge the validity of any provision of the Final Agreement.

**PART 13: APPLICATION OF LAWS**

All Laws to Apply

2.13.1 Subject to Sections 2.13.2 and 2.13.3, all federal, territorial and local government laws shall apply to Inuit and Inuit Settlement Lands.

Final Agreement to Prevail

2.13.2 Where there is any inconsistency or conflict between any federal, territorial and local government laws, and the Final Agreement, the Final Agreement shall prevail to the extent of the inconsistency or conflict.

Ratifying and Implementing Legislation to Prevail

2.13.3 Where there is any inconsistency or conflict between the ratifying and implementing legislation and any other legislation, the ratifying and implementing legislation shall prevail to the extent of the inconsistency or conflict.

Interpretation with regard to Conflict and Inconsistency

2.13.4 For greater certainty, the terms "inconsistency" and "conflict" as used in Sections 2.13.2 and 2.13.3 shall be interpreted by having regard to the common law rules governing the interpretation of laws and documents and to the Interpretation Act.

**PART 14: AMENDING THE FINAL AGREEMENT**

2.14.1 Except where otherwise expressly permitted in the Final Agreement, amendment of the Final Agreement shall require the consent of the parties by the process to be set out in the Amendment Provisions of the Final Agreement.

**PART 15: SUITS ON BEHALF OF INUIT**

2.15.1 Where an Inuk has a right of action in relation to the Final Agreement, the DIO may bring such action on behalf

of him or her. This clause shall not preclude an Inuk from commencing an action on his or her own behalf.

#### PART 16: INDEMNITY

2.16.1 In consideration of the rights and benefits provided by the Final Agreement, the DIO or DIOs identified in the Final Agreement and any successor organizations or assigns shall indemnify and forever save harmless Her Majesty in Right of Canada from all manner of suits and actions, causes of actions, claims, demands, damages, costs or expenses, liability and entitlement, initiated, made or incurred after this Agreement, whether known or unknown, against Canada which any person who is eligible to participate in this Agreement, including any heir, successor or permitted assign of such a person ever had, now has, or may hereafter have, against Canada, relating to or in any way arising from the aboriginal claims, rights, titles and interests in and to lands and waters described in Sub-section 2.8.1(a).

2.16.2 Canada shall vigorously defend any such suit or action, cause of action, claim or demand and shall not compromise or settle any such suit or action, cause of action, claim or demand without the consent of the DIO or DIOs.

2.16.3 The DIO or DIOs shall not be required to pay to Canada its costs under Sections 2.16.1 or 2.16.2.

2.16.4 For greater certainty, the right to be indemnified set out in Section 2.16.1 shall not extend to any manner of suit or action, cause of action, claim, demand, damage, cost or expense, liability or entitlement relating to or any way arising from the failure of Her Majesty in Right

of Canada to carry out Her obligations under the Final Agreement.

**PART 17: DISCLOSURE OF INFORMATION**

2.17.1 Notwithstanding any other provision of the Final Agreement, except Section 23.6.6 of the Entry and Access Provisions, Government is not required to disclose any information that it is required or entitled to withhold under any statute relating to access to and privacy of information. Where Government has a discretion to disclose any information, it shall take into account the objects of the Agreement in exercising that discretion.

**PART 18: INUIT SETTLEMENT LANDS**

2.18.1 Inuit Settlement Lands shall be deemed not to be lands reserved for the Indians within the meaning of the Constitution Act, 1867.



ARTICLE 3: NUNAVUT SETTLEMENT AREA

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## ARTICLE 3: NUNAVUT SETTLEMENT AREA

### PART 1: DESCRIPTION

3.1.1 The Nunavut Settlement Area shall be composed of "Area A", which is composed of that portion of the Arctic Islands and mainland of the Eastern Arctic and adjacent marine areas as described below, and "Area B", which is composed of the Belcher Islands, associated islands and adjacent marine areas in Hudson Bay, also described below.

3.1.2 The parallels of latitude and meridians of longitude referred to in this description are from the 1:500,000 scale National Topographic Series maps, being North American Datum 1927.

### PART 2: AREA A

3.2.1 Area A includes all those lands, water and marine areas enclosed within the following boundary:

(a) Inuvialuit Settlement Region to Hudson Strait:

Inuvialuit Settlement Region Commencing at a point on the eastern boundary of the Inuvialuit Settlement Region, as described in the Inuvialuit Final Agreement 1984, being the point north of Borden Island where Canada's Territorial Sea Boundary, as set out in the Territorial Sea Geographic Co-ordinates (Area 7) Order, S.O.R./85-872, intersects with 110°00'W longitude;

**Arctic Islands** thence generally northeasterly along the Territorial Sea Boundary, north of Cape Columbia (83°07'N latitude and 70°30'W longitude) on Ellesmere Island;

**East Baffin Coast** thence southerly along the Territorial Sea Boundary off the eastern coasts of Ellesmere, Devon and Baffin Islands, to its intersection with 73°40'N latitude, east of Cape Liverpool on Baffin Island;

thence southerly along the Territorial Sea Boundary off the eastern coast of Baffin Island to its intersection with 66°37'N latitude, east of Cape Dyer on Baffin Island;

thence southerly along the Territorial Sea Boundary to its intersection with 61°00'N latitude;

(b) **Hudson Strait to Hudson Bay:**

**Hudson Strait** thence due west along said parallel to its intersection with 64°55'W longitude, south of Resolution Island;

The following area is to be defined:

**Nottingham and Salisbury Islands**

Coats and

**Mansel Islands**

(c) **Coats Island to Keewatin Coast:**

**Coats and  
Southhampton  
Islands** thence westerly to a point 15 statute miles due south of Cape Southampton on Coats Island at the approximate intersection of  $61^{\circ}55'N$  latitude and  $83^{\circ}40'W$  longitude;

thence northwesterly to a point 15 statute miles due south of Cape Kendall on Southampton Island at the approximate intersection of  $63^{\circ}20'N$  latitude and  $87^{\circ}00'W$  longitude;

**Keewatin  
Coast** thence due west to a point approximately 50 statute miles due east of Chesterfield Inlet at the intersection of  $63^{\circ}20'N$  latitude and  $89^{\circ}00'W$  longitude;

**Manitoba  
Border** thence south and west following a line 50 miles distant from the low water mark of the western shore of Hudson Bay to the intersection of  $60^{\circ}00'N$  latitude and approximately  $93^{\circ}20'W$  longitude, at the Manitoba and Northwest Territories borders;

(d) **60th Parallel to Inuvialuit Settlement Region:**

The following area is to be defined:

**60th  
Parallel** thence due west along said parallel to ...

**West  
Keewatin**



Thelon Game  
Sanctuary

Kitikmeot  
West

(e) Inuvialuit Settlement Region boundary:

Inuvialuit Settlement Region thence northwesterly to a point on the southeastern boundary of the Inuvialuit Settlement Region, being the intersection of 68°00'N latitude and 120°40'51"W longitude;

thence following the adjusted boundary of the Inuvialuit Settlement Region, as set out in the TFN/COPE Agreement of May 19, 1984, to the intersection of 70°00'N latitude and 110°00'W longitude; and finally

thence due north along said meridian, along the eastern boundary of the Inuvialuit Settlement Region, to its intersection with the Territorial Sea Boundary north of Borden Island at the point of commencement.

**PART 3: AREA B**

3.3.1 Area B includes all those lands, waters, and marine areas enclosed within the following boundary:

The following area is to be defined:

*WS*  
Southeastern  
Hudson Bay

Sleeper,  
King George  
and  
Salliquit  
Islands

Belcher  
Islands

#### PART 4: MAP

3.4.1 The 1: 2,000,000 scale Lambert Conformal map depicting Areas A and B, appended to these provisions as Schedule 3-1 may be used as a guide to the interpretation of the descriptions in this Article, and to the schedule to Exempt High Arctic Areas from Land Identification attached to the Identification of Inuit Settlement Lands Provisions.

#### PART 5: GREATER CERTAINTY

3.5.1 For greater certainty, Inuit shall enjoy additional rights to areas outside the Nunavut Settlement Area as stipulated by other provisions of the Agreement.

*WY*  
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SCHEDULE 3-1: MAP DEPICTING AREAS A AND B

ARTICLE 4: NUNAVUT POLITICAL DEVELOPMENT

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## ARTICLE 4: NUNAVUT POLITICAL DEVELOPMENT

### PART 1: GENERAL

4.1.1 Consistent with their long-standing positions, the Government of Canada, the Territorial Government and the Tungavik Federation of Nunavut (TFN) support in principle the creation of a Nunavut Territory, and the financing of a Nunavut Government, outside of the claims agreement, as soon as possible.

4.1.2 The Territorial Government and TFN undertake to develop, within six months of the Agreement, a process for giving effect to Section 4.1.1 consistent with the Iqaluit Agreement, January 15, 1987.

4.1.3 TFN acknowledges that the process described in Section 4.1.2 shall include a territory-wide plebiscite on a boundary for division, and an agreement among the parties described in Section 4.1.1 on the division of powers.



WILDLIFE AND CONSERVATION



*us*  
**ARTICLE 5: WILDLIFE**

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PARTS 1 TO 4: GENERAL



## ARTICLE 5: WILDLIFE

### PART 1: DEFINITIONS

#### 5.1.1 In this Article:

"adjusted basic needs level" means the level of harvesting by Inuit identified in Part 21;

"basic needs level" means the level of harvesting by Inuit identified in Part 20;

"big game" means game listed in Schedule 5-1;

"domestic interjurisdictional agreement" means a wildlife agreement between two or more of the Government of Canada, provincial governments in Canada and territorial governments in Canada;

"furbearers" means those species listed in Schedule 5-2;

"harvest" means the reduction of wildlife into possession, and includes hunting, trapping, fishing (as defined by the Fisheries Act), netting, egging, picking, collecting, gathering, spearing, killing, capturing or taking by any means;

"Hunters and Trappers Organization" (also referred to as HTO) means an organization identified in Part 32;

"international agreement" means a wildlife agreement between the Government of Canada and one or more foreign states or associations of foreign states;

"lands" include lands covered by water or ice in the onshore and offshore areas;

"laws of general application" mean those statutes, ordinances and regulations in force in the Nunavut Settlement Area that affect any of the provisions of this Article or the harvesting of wildlife in the Nunavut Settlement Area;

"marketing" means sale and other types of commercial disposition, in raw or processed form, but does not include retail disposition at a restaurant;

"migratory birds" means birds listed in Schedule 5-3;

"naturalist lodge" means a facility catering primarily to the observation or study of natural or cultural features;

"non-quota limitation" means a limitation of any kind, except a limitation of maximum amount used to determine a total allowable harvest, and may include a limitation on season of harvest, sex of wildlife, size of wildlife, age of wildlife or method of harvest;

"Nunavut Wildlife Harvest Study" means the harvesting study identified in Part 15;

"NWMB" means the Nunavut Wildlife Management Board;

"other Inuit" means persons who are Inuit, by descent or by custom, but who are not enroled under the Final Agreement; and "other Inuk" means one such person;

"other residents" means residents of the Nunavut Settlement Area other than Inuit;

"region" means the Baffin region, Keewatin region and Kitikmeot region;

"Regional Wildlife Organization" (also referred to as RWO) means an organization identified in Part 32;

"species" means any particular species or any distinct sub-group within a species such as a stock or population;

"sports lodge" means a facility catering primarily to the sport harvesting of wildlife;

"study" means the Nunavut Wildlife Harvest Study;

"surplus" means the difference between the adjusted basic needs level and the total allowable harvest and, where there is no adjusted basic needs level, the difference between the basic needs level and total allowable harvest;

"Total Allowable Harvest" means an amount of wildlife able to be lawfully harvested as established by the NWMB pursuant to Part 19;

"wildlife" means all terrestrial, aquatic, avian and amphibian flora and fauna ferae naturae, and all parts and products thereof; flora excludes trees suitable for commercial production of lumber or other building materials, but includes materials required by Inuit for local use, land-based activities and handicraft production.

## PART 2: PRINCIPLES

5.2.1 This Article recognizes and reflects the following principles:

- (a) Inuit are traditional and current users of wildlife;
- (b) the legal rights of Inuit to harvest wildlife flow from their traditional and current use;
- (c) the Inuit population is steadily increasing;
- (d) a long-term, healthy, renewable resource economy is both viable and desirable;
- (e) there is need for an effective system of wildlife management that complements Inuit harvesting rights and priorities;
- (f) there is a need for systems of wildlife management and land management that provide optimum protection to the renewable resource economy;
- (g) the wildlife management system and the exercise of Inuit harvesting rights are governed by and subject to the principles of conservation;
- (h) there is a need for an effective role for Inuit in all aspects of wildlife management, including research; and
- (i) Government retains the ultimate responsibility for wildlife management.

### PART 3: OBJECTIVES

5.3.1 This Article seeks to achieve the following objectives:

- (a) the creation of a system of harvesting rights, priorities and privileges that
  - (i) reflects the traditional and current levels, patterns and character of Inuit harvesting,
  - (ii) subject to availability (as determined by the application of the principles of conservation), and taking into account the likely and actual increase in the population of Inuit, confers on Inuit rights to harvest wildlife sufficient to meet their basic needs, as adjusted as circumstances warrant,
  - (iii) gives Designated Inuit Organizations (DIOs) priority in establishing and operating economic ventures with respect to harvesting, including sports and other commercial ventures,
  - (iv) provides for harvesting privileges and allows for continued access by persons other than Inuit, particularly long-term residents, and
  - (v) avoids unnecessary interference in the exercise of the rights, priorities and privileges to harvest;

(b) the creation of a wildlife management system that

- (i) is governed by, and implements, principles of conservation,
- (ii) fully acknowledges and reflects the primary role of Inuit in wildlife harvesting,
- (iii) serves and promotes the long-term economic, social and cultural interests of Inuit harvesters,
- (iv) as far as practical, integrates the management of all species of wildlife,
- (v) invites public participation and promotes public confidence, particularly amongst Inuit, and
- (vi) enables and empowers the Nunavut Wildlife Management Board to make wildlife management decisions pertaining thereto.

#### **PART 4: CONSERVATION**

5.4.1 The principles of conservation will be interpreted and applied giving full regard to the principles and objectives outlined in Parts 2 and 3 and the rights and obligations set out in this Article.

5.4.2 The principles of conservation are:

- (a) the maintenance of the natural balance of ecological systems within the Nunavut Settlement Area;

- (b) the protection of wildlife habitat;
- (c) the maintenance of vital, healthy, wildlife populations capable of sustaining harvesting needs as defined in this Article;
- (d) the restoration and revitalization of depleted populations of wildlife and wildlife habitat.



PARTS 5 TO 14: NUNAVUT WILDLIFE MANAGEMENT BOARD



## PART 5: GENERAL

5.5.1 The Government of Canada and Inuit recognize that there is a need for an effective role for Inuit in all aspects of wildlife management.

## PART 6: ESTABLISHMENT AND STRUCTURES

5.6.1 There shall be a board to be known as the Nunavut Wildlife Management Board (NWMB) consisting of nine members to be appointed as follows:

- (a) each DIO shall and may appoint one member;
- (b) the Governor-in-Council
  - (i) on the advice of the Minister responsible for fish and marine mammals shall and may appoint one member to represent the public interest,
  - (ii) on the advice of the Minister responsible for the Canadian Wildlife Service shall and may appoint one member,
  - (iii) on the advice of the Minister of the Department of Indian Affairs and Northern Development in consultation with the Commissioner-in-Executive Council shall and may appoint a third member ordinarily resident in the Nunavut Settlement Area;
- (c) the Commissioner-in-Executive Council, on the advice of the appropriate Minister, shall and may appoint one member; and

(d) the Governor-in-Council on the recommendation of the NWMB, shall appoint a chairperson.

5.6.2 Where a Minister nominates a member to the NWMB who is not a public servant, that Minister shall have the right to have an officer of his department attend all meetings of the NWMB as a non-voting observer. Where a DIO nominates a member to the NWMB, that DIO shall have the right to have a technical advisor attend all meetings as a non-voting observer. The costs of each non-voting observer shall be borne by the person or organization sending that observer.

5.6.3 For the purpose of Section 5.6.1, there shall be four DIOs.

5.6.4 Each member shall be appointed to hold office during good behaviour for a term of four years. A member may be reappointed to office.

5.6.5 A member may be removed from office at any time for cause by the person appointing him or her.

5.6.6 Each member shall, before entering upon his or her duties as such, take and subscribe before an officer authorized by law to administer oaths an oath in the form set out in Schedule 5-4. Rules relating to conflict of interest set out in specified federal and territorial laws shall apply to members, but no member who is an Inuk shall be considered biased solely because the member is an Inuk.

5.6.7 The cost of the NWMB shall be the responsibility of Government. The NWMB shall prepare an annual budget,

subject to review and approval by Government.

5.6.8 Each member shall be paid fair and reasonable remuneration for his or her work on the NWMB.

5.6.9 Each member shall be entitled to be paid such travelling and living expenses incurred by him or her in the performance of his or her duties as are consistent with Treasury Board guidelines for travelling and living expenses of public servants.

5.6.10 All members of the NWMB except the chairperson shall have one vote. The chairperson shall vote only in order to break a tie.

5.6.11 All decisions of the NWMB shall be decided by a majority of votes cast.

5.6.12 Each member may execute either a general or special proxy in favour of another member.

5.6.13 The head office of the NWMB shall be in the Nunavut Settlement Area.

5.6.14 The NWMB shall meet at least twice a year, and may meet as often as it deems fit.

5.6.15 The chairperson shall convoke a meeting of the NWMB within 21 days of receipt from any four members of the NWMB of a written request indicating the purpose of such meeting.

5.6.16 The NWMB shall, whenever practicable, meet in the Nunavut Settlement Area.

5.6.17 The NWMB shall conduct its business in Inuktitut and Canada's official languages.

5.6.18 Five members physically present constitute a quorum. The NWMB may modify the requirement for being physically present through a by-law permitting use of teleconference or like facilities in circumstances of emergency.

5.6.19 A vacancy in the membership of the NWMB does not impair the right of the remainder to act.

5.6.20 The NWMB may make by-laws and rules respecting:

- (a) the calling of meetings and sitting of the NWMB;
- (b) the conduct of business at meetings of the NWMB and the establishment of special and standing committees of the NWMB and the fixing of quorums for meetings;
- (c) the carrying on of the work of the NWMB, the management of its internal affairs, and the duties of its officers and employees;
- (d) the procedure for making applications, representations and complaints to the NWMB;
- (e) the procedure for collecting information and opinion, including the procedure and conduct of public hearings; and
- (f) generally, the manner of conducting any business before the NWMB.

5.6.21 The officers and employees necessary for the proper conduct of business of the NWMB may be appointed and shall be remunerated by the NWMB.

5.6.22 Such officers and employees shall be responsible to and under the direction and control of the NWMB.

5.6.23 The NWMB may hold public hearings into any issue requiring a decision on its part.

5.6.24 The NWMB may make rules distinguishing the roles reserved for full parties and roles reserved for other classes of persons at public hearings. Any representative or agent of the Government of Canada or Territorial Government, any Inuk or any Hunters and Trapper organization (HTO) or Regional Wildlife Organization (RWO) shall be accorded the status of full party. The NWMB may, at its discretion and in conformity with its rules determine whether any other person is accorded the status of full party for the purpose of any particular public hearing.

5.6.25 The NWMB shall have the same powers as commissioners appointed pursuant to Part I of the Inquiries Act, RSC 1970, c.I-13. The NWMB may not, however, subpoena Ministers of the Crown.

#### PART 7: POWERS AND DUTIES

##### General

5.7.1 Recognizing that Government retains ultimate responsibility for wildlife management, Government agrees that the NWMB shall be the main instrument of wildlife management in the Nunavut Settlement Area and the main

regulator of access to wildlife and have the primary responsibility in relation thereto in the manner described in this Agreement. Accordingly, the NWMB shall perform the following functions:

- (a) conducting the Nunavut Wildlife Harvest Study (Part 15);
- (b) rebutting presumptions as to need (Part 17);
- (c) establishing, modifying or removing levels of total allowable harvest (Part 19);
- (d) ascertaining the basic needs level (Part 20);
- (e) adjusting the basic needs level (Part 21);
- (f) allocating resources to other residents (Part 23);
- (g) allocating resources to existing operations (Part 24);
- (h) dealing with priority applications (Part 27);
- (i) making recommendations as to allocation of the remaining surplus (Part 28);
- (j) establishing, modifying or removing non-quota limitations (Part 30);
- (k) setting trophy fees (Section 5.36.8);
- (l) participating in research (Section 5.7.6).

5.7.2

In addition to its primary functions outlined in Section 5.7.1, the NWMB shall in its discretion perform the following functions related to management and protection of wildlife and wildlife habitat:

- (a) approve the designation of sanctuaries and areas dedicated to wildlife conservation;
- (b) identify wildlife management zones and areas of high biological productivity and provide recommendations to the Nunavut Planning Commission with respect to planning in those areas;
- (c) approve plans for management and protection of particular wildlife habitats including areas within Conservation Areas, Territorial Parks and National Parks;
- (d) approve plans for
  - (i) management, classification, protection, restocking or propagation of particular wildlife, including endangered species,
  - (ii) the regulation of imported non-indigenous species and the management of transplanted wildlife populations;
- (e) provide advice to Ministries, the Nunavut Impact Review Board and other concerned agencies and appropriate persons regarding mitigation measures and compensation to be required from commercial and industrial developers who cause damage to wildlife habitat;

- (f) approve designation of rare, threatened and endangered species;
- (g) provide advice as to requirements for the promotion of wildlife education, information and training of Inuit for wildlife management; and
- (h) any other functions assigned to it by the Agreement not referred to in Section 5.7.1.

5.7.3 The NWMB may perform other activities central or incidental to the management of wildlife in the Nunavut Settlement Area and to the regulation of access to wildlife in the Nunavut Settlement Area as agreed by the NWMB and Government.

5.7.4 Decisions of the NWMB with respect to Sub-sections 5.7.2(a), (c), (d) and (f) are subject to the provisions of Parts 9, 10 and 11.

5.7.5 While it is recognized that habitat management and protection is an integral function of wildlife management, and as such is commensurate with the NWMB's responsibilities for wildlife matters, it is also recognized that primary responsibility for the management of lands, including flora, shall be exercised by the appropriate government agencies and such other related bodies as may be established in the Final Agreement.

Research

5.7.6 Government recognizes the need for an effective system of wildlife management, and in doing so, recognizes that

to be effective such a system of management requires an efficient, co-ordinated research effort. The NWMB in fulfilling its management functions requires an informed and effective role in wildlife research and its direction. The ability and right of the Government of Canada and Territorial Government to continue their own research functions shall not be prejudiced by this Section. Accordingly the NWMB shall:

- (a) identify research requirements and deficiencies pertinent to wildlife management and the rational utilization of wildlife resources, and promote and encourage on an ongoing basis, research aimed at meeting requirements and overcoming deficiencies;
- (b) identify relevant persons and agencies to undertake wildlife research;
- (c) review research proposals and applications, and where appropriate recommend on the acceptance or rejection of such proposals to the appropriate government agency;
- (d) collect, classify, and disseminate wildlife statistics and information and maintain a data base adequate for such purposes; and
- (e) carry out all other research functions consistent with its responsibilities.

5.7.7 Further to its responsibilities in Section 5.7.6, the NWMB shall:

- (a) establish and maintain an open file system for all raw and interpreted data and information regardless of its source;
- (b) promote and encourage training for Inuit in the various fields of wildlife research and management;
- (c) promote and encourage the employment of Inuit and Inuit organizations in research and technical positions made available through government and private sector research contracts; and
- (d) prior to the carrying out of research, communicate, consult and cooperate with residents and DIOs likely to be affected.

5.7.8 In making management decisions affecting parks, sanctuaries and conservation areas, the NWMB shall take into account the special purposes and policies relating to those areas. For greater certainty, this does not affect any rights of access as set out in Part 33.

#### PART 8: JUDICIAL REVIEW

5.8.1 It is agreed that judicial review of a decision of the NWMB shall be available on the grounds set out in Paragraphs 28(1)(a) or (b) of the Federal Court Act, RSC 1970 (2nd Supp.), C. 10, at the motion of a person personally aggrieved or materially affected by the decision.

5.8.2 Except as provided for in Section 5.8.1, no decision, order or direction of the NWMB shall be questioned or

reviewed in any court and no order shall be made or proceeding taken in any court whether by way of injunction, declaratory judgement, certiorari, mandamus, or prohibition or otherwise to question, review, prohibit or restrain the NWMB or any of its proceedings.

5.8.3 The NWMB may, in any application proceeding or matter of special importance pending before it, if in the opinion of the NWMB the public interest so requires, hire counsel to conduct or argue the case or any particular question arising in the application, proceeding or matter.

5.8.4 Government agrees to address the matter of funding for Inuit intervenors prior to the Final Agreement.

**PART 9: LEGAL EFFECT OF DECISIONS  
(TERRITORIAL GOVERNMENT JURISDICTION)**

5.9.1 All decisions made by the NWMB in relation to any matter coming within Parts 15 to 31 of this Article and subject to territorial jurisdiction shall be made in the manner set out in this Part.

5.9.2 When the NWMB makes a decision, it shall forward that decision to the appropriate Minister. The NWMB shall not make that decision public.

5.9.3 After receiving a decision of the NWMB pursuant to Section 5.9.2, the Minister may:

(a) accept the decision; or

(b) disallow the decision in accordance with Section 5.9.5.



5.9.4 Where the Minister accepts a decision of the NWMB or does not disallow that decision in accordance with Section 5.9.5, the Minister shall proceed forthwith to do all things necessary to implement that decision.

5.9.5 Where the Minister decides to disallow a decision of the NWMB:

- (a) the Minister must do so within 30 days of the date upon which the Minister received the decision or within such further period as may be agreed upon by the Minister and the NWMB; and
- (b) the Minister shall give the NWMB reasons in writing for deciding to disallow the decision.

5.9.6 Where the decision of the NWMB is made in relation to any matter coming within Parts 17, 21 or 27, the Minister may disallow that decision pursuant to Section 5.9.5 only if the Minister determines that the decision:

- (a) is not supported by or consistent with the evidence that was before the NWMB or available to it;
- (b) conflicts with the reasonable wildlife harvesting activities of Canadians in other parts of Canada including other claim settlement areas; or
- (c) conflicts with the terms of a domestic inter-jurisdictional agreement or an international agreement respecting wildlife.

5.9.7 Where the Minister disallows a decision of the NWMB pursuant to Section 5.9.5, the NWMB shall reconsider the decision in the light of the written reasons provided by the Minister and make a final decision, which it shall forward to the Minister. The NWMB may make that final decision public.

5.9.8 After receiving a final decision of the Board made pursuant to Section 5.9.7, the Minister may:

- (a) accept the final decision;
- (b) subject to Section 5.9.9, disallow the final decision; or
- (c) vary the final decision.

5.9.9 Where a final decision of the NWMB is made in relation to any matter coming within Parts 17, 21 or 27 of this Article and the Minister is not prepared to accept the final decision, the Minister shall refer the final decision to the Commissioner-in-Executive Council, who may:

- (a) accept the final decision;
- (b) reject the final decision; or
- (c) vary the final decision.

5.9.10 Where a final decision has been received by the Minister pursuant to Section 5.9.7 and the Minister or, where applicable, the Commissioner-in-Executive Council, decides to accept or vary the final decision, the

Minister shall proceed forthwith to do all things necessary to implement the final decision or the final decision as varied.

5.9.11 It is recognized that certain populations of wildlife found in the Nunavut Settlement Area cross jurisdictional boundaries and are harvested outside the Nunavut Settlement Area by persons resident elsewhere. Accordingly, it is understood that the NWMB and the Minister, in exercising their responsibilities, will find it necessary to take account of harvesting activities outside the Nunavut Settlement Area and the terms of domestic interjurisdictional agreements or international agreements pertaining to such wildlife.

**PART 10: LEGAL EFFECT OF DECISIONS  
(GOVERNMENT OF CANADA JURISDICTION)**

5.10.1 All decisions made by the NWMB in relation to any matter coming within Parts 15 to 31 of this Article and subject to federal jurisdiction shall be made in the manner set out in this Part.

5.10.2 When the NWMB makes a decision, it shall forward that decision to the Minister responsible for the matter in question.

5.10.3 After receiving a decision of the NWMB pursuant to Section 5.10.2, the Minister shall within 60 days or within such further period as may be agreed upon by the Minister and the NWMB:

- (a) accept the decision and notify the NWMB in writing; or

(b) give the NWMB his reasons in writing for not accepting the decision.

5.10.4 The Minister shall be deemed to have accepted the decision of the NWMB when:

- (a) the Minister has so notified the NWMB in writing; or
- (b) the Minister has not rejected the decision within 60 days pursuant to Section 5.10.3.

5.10.5 Where the Minister is deemed to have accepted a decision of the NWMB as provided in Section 5.10.4, the Minister shall proceed forthwith to do all things necessary to implement that decision.

5.10.6 Where the decision of the NWMB is made in relation to any matter coming within Parts 17, 21 or 27, the Minister may reject that decision pursuant to Section 5.10.3 only if the Minister determines that the decision:

- (a) is not supported by or consistent with the evidence that was before the NWMB or available to it;
- (b) conflicts with the reasonable wildlife harvesting activities of Canadians in other parts of Canada including other claims settlement areas; or
- (c) conflicts with the terms of a domestic inter-jurisdictional agreement or an international agreement respecting wildlife.

5.10.7 Where the Minister rejects a decision of the NWMB pursuant to the above Sub-sections the NWMB shall reconsider the decision in light of the written reasons provided by the Minister and make a final decision, which it shall forward to the Minister. The NWMB may make the final decision public.

5.10.8 After receiving a final decision of the NWMB made pursuant to Section 5.10.7, the Minister may:

- (a) accept the final decision;
- (b) reject the final decision; or
- (c) vary the final decision.

5.10.9 Where a final decision has been received by the Minister pursuant to Section 5.10.7 and the Minister decides to accept or vary the final decision, the Minister shall proceed forthwith to do all things necessary to implement the final decision or the final decision as varied.

5.10.10 It is recognized that certain populations of wildlife found in the Nunavut Settlement Area cross jurisdictional boundaries and are harvested outside the Nunavut Settlement Area by persons resident elsewhere. Accordingly, it is understood that the NWMB and the Minister, in exercising their responsibilities, will find it necessary to take account of harvesting activities outside the Nunavut Settlement Area and the terms of domestic interjurisdictional agreements or international agreements pertaining to such wildlife.

5.11.1 When urgent and unusual circumstances require an immediate modification in harvesting activities, the appropriate Minister or his delegated agent may make and implement any reasonable interim decision. The NWMB shall conduct a full review as soon as practicable thereafter.

#### **PART 12: MINISTERIAL MANAGEMENT INITIATIVE**

5.12.1 Nothing in this Article will prevent a Minister, on the Minister's own initiative, from referring a management matter to the NWMB. Where a matter is referred, the NWMB shall deal expeditiously with it. The NWMB will respond to Ministerial initiatives with decisions in time to permit Ministers to meet their national and international obligations.

#### **PART 13: LAWS OF GENERAL APPLICATION**

5.13.1 Laws of general application shall continue in force until repealed.

##### Prohibitions on Sale of Migratory Birds

5.13.2 Nothing in this Article shall be construed as granting an Inuk any right to sell or offer for sale any migratory bird, migratory bird's egg, or parts thereof not authorized for sale or to be offered for sale by laws of general application.

#### **PART 14: TRANSITIONAL PROVISIONS**

5.14.1 From July 26, 1989, until ratification of the Final Agreement, all applications to

- (a) establish new sports, hunting lodges and fishing lodges and naturalist lodges in the Nunavut Settlement Area,
- (b) establish facilities for the purpose of indigenous wildlife and reindeer propagation, cultivation or husbandry in the Nunavut Settlement Area,
- (c) market wildlife, wildlife parts and wildlife products in the Nunavut Settlement Area, and
- (d) carry out any venture aimed at the commercial collection or processing of non-edible wildlife parts and wildlife products

shall be reviewed with the appropriate RWO to determine whether the application should be approved.

5.14.2 Section 5.14.1 and the rights of first refusal referred to in Parts 39, 40 and 41 do not apply to existing ventures or renewals.

5.14.3 Government agrees that, between the date of the initialling of this Article and the establishment of the NWMB, it will not impose any management measures affecting Inuit harvesting opportunities for populations for which no limitation exists, without prior consultation with the appropriate RWO or, where no RWO exists, the appropriate regional Inuit organization.

PARTS 15 TO 31: HARVESTING



#### PART 15: NUNAVUT WILDLIFE HARVEST STUDY

5.15.1 A Nunavut Wildlife Harvest Study shall be undertaken in, and cover, each of the three regions of the Nunavut Settlement Area. Details of the study shall be provided in Schedule 5-5 of the Final Agreement.

5.15.2 The study shall begin in each of the three regions on or before the first anniversary of the date of the ratification of the Final Agreement. The study shall be carried out under the direction of a steering committee. The steering committee shall be composed of members appointed by Government and the Inuit organization responsible for negotiating the Final Agreement.

5.15.3 The actual research, data collection and fieldwork associated with the study shall be contracted to an appropriate Inuit organization and supervised by the steering committee.

5.15.4 Upon the establishment of the NWMB, it may take over the responsibilities of the steering committee for the duration of the study.

5.15.5 The study shall be undertaken over a period of five years. The study shall be fully funded by the Government of Canada and the Territorial Government.

5.15.6 The purpose of the study shall be to furnish data, to establish current Inuit harvesting levels, to assist the NWMB in establishing levels of Total Allowable Harvest and, in general, to contribute to the sound management and rational utilization of wildlife resources in the Nunavut Settlement Area. To this end, the study shall:

✓

- (a) document the levels and patterns of Inuit use of wildlife resources for the purpose of determining the basic needs level; and
- (b) gather, review and analyse existing biological, ecological and harvest data pertinent to the management of wildlife in the Nunavut Settlement Area.

5.15.7 Raw and interpreted data produced from the study shall be fully and freely available to the Government of Canada, the Territorial Government and Inuit.

5.15.8 Notwithstanding anything contained in Section 5.15.7, the NWMB shall establish guidelines to protect the confidentiality of an individual hunter's harvest information with regard to the data gathered and produced by the study.

#### PART 16: FULL LEVEL OF NEEDS

5.16.1 Subject to the terms of this Article, where a total allowable harvest has not been established by the NWMB pursuant to Part 19, an Inuk shall have the right to harvest all species of wildlife in the Nunavut Settlement Area up to the full level of his or her economic, social and cultural needs. For the purpose of this Part, full level of needs means full level of harvest.

5.16.2 Any existing quotas or restrictions on the amount of wildlife that may be harvested in force at the time the Final Agreement comes into effect shall remain in effect until altered by the NWMB.

**PART 17: PRESUMPTIONS AS TO NEEDS**

5.17.1 Subject to Section 5.17.2, the NWMB shall presume as a matter of fact and without further evidence that Inuit need the Total Allowable Harvest established by the NWMB of:

- (a) all bears;
- (b) musk-ox;
- (c) bowhead whales;
- (d) all migratory birds and their eggs except migratory game birds, as listed in Part I of Schedule 5-3, during the fall season, beginning every September 1;
- (e) all raptors, including owls; and
- (f) those items of wildlife to be listed in Schedule 5-6, from among those wildlife species or products that were not harvestable by law or harvestable only by a special permit at any time or times in the period July 30, 1961 to the establishment of the NWMB.

5.17.2 Except where unpredicted and extensive growth of a wildlife population dictates otherwise, the NWMB shall not examine a presumption set out in Section 5.17.1 for the purpose of rebuttal until 20 years after the signing of the Final Agreement.

5.17.3 The NWMB may examine a presumption for the purpose of rebuttal after 20 years has expired and at intervals thereafter of not less than five years.

5.17.4 The NWMB shall not be under any obligation to examine a presumption for the purpose of rebuttal unless requested to do so by the appropriate Minister of the Government of Canada or Territorial Government, or by an HTO or RWO.

5.17.5 In assessing the economic, social and cultural needs of Inuit, the NWMB shall consider:

- (a) actual levels of harvest;
- (b) availability of and accessibility to wildlife; and
- (c) the general economic, social and cultural conditions and circumstances of Inuit.

5.17.6 In examining a presumption for the purpose of rebuttal, the NWMB shall treat each discrete population of wildlife on a case-by-case basis.

5.17.7 For the foreseeable future, Government expects to continue its present policy of favouring Inuit in the whale and walrus hunt.

5.17.8 Presumptions as to need shall not be implemented so as, in themselves, to prevent government wildlife officers and researchers from harvesting wildlife for purposes of research or of predator or disease control, as approved by the NWMB.

5.18.1 No person other than a person mentioned in Section 5.18.2 may harvest furbearers in the Nunavut Settlement Area.

5.18.2 Subject to the terms of this Article, the following persons, may harvest furbearers in the Nunavut Settlement Area, namely:

- (a) an Inuk;
- (b) a person who on October 27, 1981, held a valid General Hunting Licence, and who actually harvested furbearers in those areas in the Nunavut Settlement Area, where that person desires to continue to harvest furbearers after the date of the ratification of the Final Agreement, the burden of proving that the person qualifies under this Sub-section being on that person; and
- (c) a person whose application has been approved and recommended by a HTO of the place where the applicant desires to harvest furbearers, and subject to any terms and conditions imposed by the HTO.

5.18.3 Persons mentioned in Sub-sections 5.18.2(b) and (c) shall be subject to laws of general application.

5.18.4 For the purposes of this Part, a General Hunting Licence held by a person who is not an Inuk is deemed to be a personal licence only, and is neither transferable nor heritable.

5.19.1 Subject to the terms of this Article, the NWMB shall have sole authority to establish, modify or remove, from time to time and as circumstances require, levels of total allowable harvest on harvesting in the Nunavut Settlement Area, and shall limit harvesting through such levels only to the extent necessary to effect valid conservation purposes.

5.19.2 A total allowable harvest of a population may be expressed in numbers, weight or any other method considered appropriate by the NWMB and shall be expressed:

- (a) in the case of a species ordinarily harvested by members of a single HTO, in terms of a community quota; and
- (b) in the case of a species ordinarily harvested by members of more than one HTO, in terms of a regional quota.

#### PART 20: BASIC NEEDS LEVEL

5.20.1 Where a total allowable harvest has been determined by the NWMB in accordance with Part 19, the NWMB shall strike a basic needs level in accordance with this Part.

5.20.2 The basic needs level shall constitute the first demand on the total allowable harvest. Where the total allowable harvest is equal to or less than the basic needs level, Inuit shall have the right to the entire total allowable harvest.

5.20.3 For each species or population of a species subject to a total allowable harvest at the commencement of the Nunavut Wildlife Harvest Study, the NWMB shall calculate a basic needs level according to either:

- (a) the aggregate of the greatest amount harvested in any one year during the study, and the average annual amount harvested over the five years of the study, which aggregate is then divided by two; or
- (b) the amount harvested in any year during the study that is nominated by an HTO at the conclusion of the study, and the nominated year shall apply to all species or population of species subject to a total allowable harvest at the commencement of the study.

5.20.4 In making a calculation under Section 5.20.3, the method described in Sub-section 5.20.3(a) shall be used unless an HTO elects within six months of the commencement of the study to use the method described in Sub-section 5.20.3(b).

5.20.5 Where a total allowable harvest is established with respect to a species or a population of a species not previously subject to a total allowable harvest, the NWMB shall calculate the basic needs level as the higher of:

- (a) an amount based on data from the original five year harvest study, calculated according to the method described in Sub-section 5.20.3(a), or, where an HTO has previously elected the method described in Sub-section 5.20.3(b), the harvest level of the species in the identified year; or

(b) the aggregate of the greatest amount harvested in any one year during the five years prior to imposition of a total allowable harvest and the average annual amount taken over the five years of the study, which aggregate is then divided by two.

5.20.6 In making any calculations under Sub-section 5.20.5(b), the NWMB shall rely on the best evidence available as to the levels of harvesting by Inuit in the five years prior to establishment of a total allowable harvest.

5.20.7 While this Article contemplates that basic needs levels shall be established by the procedures set out in this Part, the parties also agree that it may be possible and desirable to agree as to the basic needs levels for beluga, narwhal and walrus through further negotiations prior to the Final Agreement. If the parties are unable to establish the basic needs levels, the NWMB shall establish the basic needs levels within 12 months of the NWMB being established.

5.20.8 If the basic needs level is not established as contemplated by Section 5.20.7 then, in that case, in striking the basic needs level for those species, the NWMB shall take into account the fact that they are in short supply and therefore that the harvest by Inuit has been and is artificially low in relation to their needs and does not necessarily reflect their real level of needs.

5.21.1 The NWMB shall periodically review the basic needs level for each species and determine whether an additional allocation is required to meet any or all of:

- (a) increased consumption or use by Inuit;
- (b) intersettlement trade; and
- (c) marketing for consumption or use in the Nunavut Settlement Area.

5.21.2 In reaching its decision, the NWMB shall take into consideration the following factors:

- (a) population growth and demographic change on a community and regional basis, including the establishment of new communities;
- (b) changing patterns of consumption, assignment and other uses including adjustments for intersettlement trade and marketing in the Nunavut Settlement Area;
- (c) the nutritional and cultural importance of wildlife to Inuit;
- (d) variations in availability of and accessibility to species other than the species under consideration; and
- (e) current use of wildlife for personal consumption by other residents in light of their length of residency.

5.21.3 Where review by the NWMB indicates that an adjustment is required, the NWMB shall set an adjusted basic needs level.

5.21.4 The adjusted basic needs level may expand up to the entire total allowable harvest. In any year the adjusted basic needs level may float upward or downward, but shall never fall below the basic needs level.

5.21.5 The NWMB shall conduct its review for various species from time to time as requested by the appropriate Minister, by an HTO or RWO, or by a member of the NWMB.

#### PART 22: SURPLUS

5.22.1 The portion of the total allowable harvest remaining after the allocation of the adjusted basic needs level shall be called the surplus.

5.22.2 The NWMB shall determine the allocation of the surplus in the following order and priority:

- (a) to provide for personal consumption by other residents as described in Part 23;
- (b) to provide for the continuation of existing sports and other commercial operations as described in Part 24;
- (c) to provide for economic ventures sponsored by HTOs and RWOs as described in Part 27; and
- (d) to provide for other uses as described in Part 28.

#### PART 23: OTHER RESIDENTS

5.23.1 From the surplus the NWMB shall first allocate a portion for personal consumption by other residents.

5.23.2 Personal consumption by other residents means consumption in the Nunavut Settlement Area by other residents or by their dependents.

5.23.3 The allocation for other residents shall be up to 14% of the amount remaining after the allocation of the basic needs level.

5.23.4 In any year the NWMB may supplement the allocation to other residents for their personal consumption after the NWMB has satisfied the requirements of economic ventures of Inuit organizations as specified in Part 27.

5.23.5 When the allocation for other residents is calculated, the terms of access to such allocation shall be determined and administered by the appropriate government agency.

5.23.6 Harvesting by a person other than an Inuk shall be subject to this Article and all laws of general application.

#### PART 24: EXISTING SPORTS AND COMMERCIAL OPERATIONS

5.24.1 From the portion, if any, of the surplus remaining after the allocation to other residents, the NWMB shall allocate a portion adequate to sustain the continuation of sports and other commercial operations lawfully authorized at an earlier time.

## PART 25: INUIT GUIDES

5.25.1 A person other than an Inuk who harvests big game must:

- hold a valid licence issued by the appropriate government agency; and
- for at least two years following the acquisition of the licence, be accompanied by an Inuk as a guide.

5.25.2 The requirement for a guide may be waived by the appropriate HTO.

## PART 26: SAVING PROVISIONS

### Moving into the Nunavut Settlement Area

5.26.1 Inuit agree that Canadian citizens and permanent residents within the meaning of the Immigration Act who will have been either:

- resident in the Nunavut Settlement Area for 18 months before the date of the ratification of the Final Agreement (in this Part called "the relevant date"), or
- residents in other parts of the Northwest Territories for 18 months preceding the relevant date and who become ordinarily resident in the Nunavut Settlement Area within five years of the relevant date

shall be eligible for hunting and fishing privileges in the Nunavut Settlement Area unless otherwise disqualified under laws of general application.

General Hunting Licence Holders

5.26.2 Inuit acknowledge in principle that provision may have to be made for the persons mentioned in Sub-section 5.18.2(b) who may need to live off the land while harvesting furbearers. Accordingly, the NWMB will be directed in the legislation establishing it to make best efforts to accommodate this potential demand.

**PART 27: PRIORITY HARVEST BY INUIT ORGANIZATIONS**

5.27.1 From the portion of the surplus after the allocation for existing sports and commercial operations, the NWMB shall allocate resources to support the establishment and continued operation of viable economic ventures, including sports and all other forms of commercial ventures, designed to benefit Inuit. These ventures must be sponsored by HTOs and RWOs.

**PART 28: ALLOCATION OF REMAINDER**

5.28.1 If any portion of the surplus remains, the NWMB shall allocate the remainder among commercial, commercial sports, recreational, or other uses, considering the various demands on the resource and the benefits that may accrue to the local economy. Any portion of the resource allocated for commercial use will be governed by a limited entry system for commercial harvesting as described in Part 29.

#### **PART 29: LIMITED ENTRY SYSTEM**

5.29.1 In the allocation of commercial licences, preference will be given to:

- (a) an applicant who has made his principal residence in the Nunavut Settlement Area for at least 18 continuous months prior to the submission of his or her application and such residence must be real and not notional; and
- (b) applications which will likely provide direct benefits to the Nunavut Settlement Area economy, in particular through employment of local human and economic resources.

5.29.2 It is further agreed that the limited entry system is not intended to exclude Inuit from applying for access to commercial opportunities, but that Inuit have at least the same right to apply as all other persons who qualify and to have their applications considered on their merits.

5.29.3 A commercial licence issued under the limited entry system shall not exceed three years in length.

#### **PART 30: NON-QUOTA LIMITATIONS**

5.30.1 Subject to the terms of this Article, the NWMB shall have sole authority to establish, modify or remove, from time to time and as circumstances require, non-quota limitations on harvesting in the Nunavut Settlement Area, and shall limit harvesting through such limitations only to the extent necessary to effect valid conservation

purposes.

5.30.2 The NWMB may distinguish between Inuit harvesters and other harvesters in establishing or removing non-quota limitations, but non-quota limitations for Inuit harvesters shall not be more severe than limitations for other harvesters.

5.30.3 Non-quota limitations established on Inuit shall not unduly or unreasonably constrain their harvesting activities.

5.30.4 Non-quota limitations on harvesting in force at the date of the ratification of the Final Agreement shall remain in effect until altered by the NWMB.

#### PART 31: EMERGENCY KILLS

5.31.1 Notwithstanding anything else in this Article, a person may kill wildlife if it is necessary to:

- preserve his or her or another person's life; or
- protect his or her property.

5.31.2 Notwithstanding anything else in this Article, a person may kill and consume wildlife where it is necessary to prevent his, her or another person's starvation.

5.31.3 This Part shall not be construed as providing lawful excuse under any law of general application to a person who kills wildlife as a result of his or her mismanagement.

5.31.4 Valuable parts of wildlife killed under Sections 5.31.1 and 5.31.2 shall be disposed of by the NWMB to the appropriate RWO.

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PARTS 32 TO 43: SPECIAL FEATURES OF INUIT HARVESTING



## PART 32: NUNAVUT INUIT ORGANIZATIONS

5.32.1 In addition to the functions given to the NWMB, the exercise of harvesting by Inuit shall be overseen by two forms of organizations:

- (a) Hunters and Trappers Organizations (HTOs); and
- (b) Regional Wildlife Organizations (RWOs).

5.32.2 Each community, and each outpost camp that prefers a separate organization, shall have an HTO. Membership in each HTO shall be open to all Inuit resident in a community. Each HTO may, by by-law, provide for classes of non-voting membership and privileges that flow therefrom, and may distinguish between other Inuit and other persons. Existing community Hunters and Trappers Associations may, subject to their adaptation to the provisions of this Article, be identified as the appropriate community body.

5.32.3 The powers and functions of HTOs shall include the following:

- (a) the regulation of harvesting practices and techniques among members (including use of non-quota limitations);
- (b) the allocation and enforcement of community quotas among members;
- (c) the assignment to non-members, with or without valuable consideration and conditions, of any portion of community quotas; and

(d) generally, the management of harvesting among members.

5.32.4 Two or more HTOs may join together for the purpose of discharging their functions over any or all species of wildlife on a joint basis.

5.32.5 RWOs shall be established in the regions of Kitikmeot, Keewatin and Baffin. Existing regional wildlife organizations, such as the Keewatin Wildlife Federation, may, subject to their adaptation to the provisions of this Article, be identified in the Final Agreement as the appropriate regional body.

5.32.6 The board of directors of each RWO shall be made up of representatives from each HTO in the region.

5.32.7 The powers and functions of RWOs shall include:

(a) the regulation of harvesting practices and techniques among the members of HTOs in the region including use of non-quota limitations;

(b) the allocation and enforcement of regional quotas among HTOs in the region;

(c) the assignment to any person or body other than an HTO, with or without valuable consideration and conditions, of any portion of regional quotas; and

(d) generally, the management of harvesting among the members of HTOs in the region.

5.32.8 Two or more RWOs may join together for the purpose of discharging their functions over any or all species of wildlife on a joint basis.

5.32.9 In conformity with this Article, each HTO and RWO shall develop and adopt by-laws guiding its operations.

5.32.10 The NWMB, RWOs and HTOs shall develop guidelines indicating the extent to which each HTO shall be obliged to conform to by-laws and decisions of the RWO in its region. It is anticipated that each HTO shall be obliged to conform to RWO by-laws and decisions in relation to allocation of regional quotas.

5.32.11 No by-law or decision of an Inuit organization shall unreasonably prevent the individual Inuk from harvesting for the purpose of meeting the consumption needs of himself or herself and his or her dependents.

5.32.12 Every member of an HTO or RWO shall be subject to the by-laws of the organization. Each RWO and HTO shall develop its own by-laws, including by-laws to discipline its membership for violation of its by-laws.

5.32.13 Adequate funding for the operation of HTOs and RWOs shall be provided by the NWMB.

5.32.14 HTOs and RWOs shall not exercise their authority pursuant to Sub-section 5.32.3(a) or 5.32.7(a) in such a way as to conflict with any other regulations governing harvesting practices and techniques.

### General Principle

5.33.1 Except as provided for in Section 5.33.2, all Inuit shall, subject to Section 5.33.3, have the free and unrestricted right of access for the purpose of harvesting to all lands within the Nunavut Settlement Area, and without limiting the generality of the foregoing, the said right of access shall extend to all lands belonging to Her Majesty or over which the Government of Canada or the Territorial Government has a power of disposal, including Parks and Conservation Areas, as well, to all lands vested in a municipal corporation.

### Exceptions

5.33.2 The rights of access granted by Section 5.33.1 shall not extend to:

(a) lands that are

(i) dedicated to military or national security purposes or being temporarily used for such purposes under the National Defence Act,

(ii) owned in fee simple, other than by municipal corporations,

(iii) subject to an agreement for sale,

(iv) subject to a surface lease current on October 27, 1981, and which lease has not been re-negotiated to grant the right of access as contemplated and intended by Section 5.33.6;

and

(b) any place within a radius of one mile of any building, structure or other facility on lands under a surface lease.

5.33.3 The right of access granted by Section 5.33.1 is subject to:

- (a) laws of general application enacted for the purpose of public safety;
- (b) any restrictions established by the NWMB for the purpose of conservation;
- (c) in the case of Parks or Conservation Areas, any bilateral agreement between Inuit affected and the management agency of such park or conservation area; and
- (d) any land use activity which has been authorized in accordance with any applicable requirements, including the Land Use Planning and Development Impact Provisions, to the extent that the right of access is incompatible with that land use activity and for only as long as is necessary to permit that land use to be exercised.

5.33.4 In the event that an Inuk or a DIO disagrees with any interested party as to the incompatibility of harvesting activities with an authorized land use, pursuant to Sub-section 5.33.3(d) the matter shall be resolved in accordance with the Arbitration Provisions.

5.33.5 In case of an inconsistency or conflict between measures taken pursuant to Sub-section 5.33.3(b) and (c), those measures taken under Sub-section (c) shall prevail to the extent of such inconsistency or conflict.

Government Undertakings in Relation to Leases

5.33.6 In the case of,

(a) a surface lease of land in the Nunavut Settlement Area current at the date of the initialling of the Wildlife Provisions of the Agreement

(i) expiring and being renewed, or

(ii) where the transfer is conditional on government consent being transferred, and

(b) a new surface lease of land within the Nunavut Settlement Area being granted,

Government undertakes to insert in the renewed, transferred, or new lease a condition to the following effect:

"This lease is subject to any rights of Inuit under their final land claims agreement to enter on to land in the Northwest Territories to pursue, capture, kill, or remove, or any of them, any wildlife, wildlife parts, or wildlife products therefrom; and the provision of any such agreement relating to the right of access shall form a part of this lease as if contained herein."

5.33.7 The obligation set out in Section 5.33.6 shall not apply to any lease referred to in Sub-section 5.33.6(a) where Government would incur legal liability were such condition to be inserted, and a certificate under the hand of the Deputy Minister of Justice shall be sufficient evidence of such fact. Further, Government undertakes to continue its present practice of notifying Tungavik Federation of Nunavut of all applications for and granting of surface leases.

Areas Outside of the Nunavut Settlement Area

5.33.8 Subject to the outcome of discussions between all parties concerned, the Final Agreement shall contain provisions defining harvesting rights and access by Inuit to traditionally used areas outside of the Nunavut Settlement Area, including the provinces of Manitoba and Quebec.

Exceptions

5.33.9 Any term of contract that attempts to limit rights of access of or harvesting by an Inuk during the leisure hours of that employee shall be null and void against Inuit.

5.33.10 Restrictions, which have been enacted for the purpose of conservation, governing access by Inuit to Parks and Conservation Areas which are in effect at the same time as the date of the ratification of the Final Agreement will remain in force until such time as they are removed or replaced by the NWMB subject to Parts 9 and 10, or through a bilateral agreement between management agencies

and the affected Inuit.

#### PART 34: LICENSING

5.34.1 Subject to the terms of this Article, an Inuk with proper identification may harvest up to his adjusted basic needs level without any form of licence or permit and without imposition of any form of tax or fee.

5.34.2 It is recognized that, pursuant to legislation governing commercial fishing, Inuit may be required to obtain a commercial licence from the appropriate management agency for the commercial harvest of those species of marine fish and shellfish not harvested commercially during the 12 months preceding October 27, 1981. Such licences shall not be unreasonably withheld or subject to an unreasonable fee.

5.34.3 While any economic venture referred to in Part 27 has been approved in accordance with terms of this Article, a licence shall be issued forthwith by the appropriate Minister at a fair fee in accordance with the laws of general application.

5.34.4 It is recognized that Inuit may be required to obtain a licence from the responsible management agency for the harvest of those species of cetaceans not regularly harvested during the 12 months preceding October 27, 1981. Such licences shall not be unreasonably withheld or subject to an unreasonable fee.

#### PART 35: DISPOSITION OF HARVEST

5.35.1 Subject to Part 21 and Section 5.35.2, an Inuk shall have the right to dispose freely to any person any wildlife lawfully harvested. The right to dispose shall include the right to sell, barter, exchange and give, either inside or outside the Nunavut Settlement Area.

5.35.2 An Inuk may be required by the appropriate government agency to obtain a permit to transport wildlife outside the Nunavut Settlement Area. If such a permit is required, the federal or territorial government agency shall issue the permit upon demand, unless it has good cause for refusing, and the permit may contain terms and conditions as established by laws of general application. Unless the wildlife in question has been harvested from the surplus, any fee for such permit shall be waived.

5.35.3 Notwithstanding the right of free disposition in Section 5.35.1, Inuit recognize the Freshwater Fish Marketing Corporation may have a role to play in the marketing of freshwater fish outside the Nunavut Settlement Area. It is recognized by Government that Inuit are dissatisfied with the current operations of the corporation. The NWMB shall be responsible for examining the concerns of Inuit and shall advise the Minister on appropriate remedial action.

#### PART 36: ASSIGNMENT OF RIGHTS AND OF ACCESS TO THE HARVEST

5.36.1 Subject to Section 5.32.3 an Inuk, and subject to Section 5.32.7, an Inuit organization may, except as provided for in Section 5.36.2,

(a) assign the right to harvest to

- (i) an Inuk, other than himself or herself, or
- (ii) the spouse or person cohabiting as the spouse of an Inuk

and in all such cases the assignment of the right to harvest shall of itself also carry with it that share of the total allowable harvest as stated in the assignment; and

- (b) assign part or whole of his, her or its share of the total allowable harvest to a person qualified to harvest under laws of general application.

5.36.2 Notwithstanding anything in Section 5.36.1,

- (a) any future total allowable harvest for migratory birds and their eggs between March 10 and September 1 in any given year, and
- (b) the harvest authorized by Article II, Section 3 of the Migratory Birds Convention Act, RSC \_\_\_\_\_,

shall not be assignable to persons mentioned in Sub-section 5.36.1(b), unless permitted by laws of general application.

5.36.3 Upon proof of assignment, a licence shall not be unreasonably withheld from an assignee under Sub-section 5.36.1(b) who is an other Inuk. Such licence shall be issued without charge.

5.36.4 An assignee referred to in Sub-section 5.36.1(a) shall be subject to the same restrictions as an Inuk.

5.36.5 An assignment of a share of a total allowable harvest acquired under Part 27 or 29 shall be subject to any terms or conditions under which access to the share was acquired.

5.36.6 No assignment by an Inuk of a right to harvest shall be for a term, including any option for renewal, exceeding one year. Any assignment for a term exceeding one year shall be void ab initio.

5.36.7 No assignment by an Inuit organization of a right to harvest shall be for a term, including any option for renewal, exceeding three years. Any assignment for a term exceeding three years shall be void ab initio.

5.36.8 Any trophy fees levied on wildlife harvested in the Nunavut Settlement Area shall be set by the NWMB.

#### PART 37: METHODS OF HARVESTING

5.37.1 An Inuk or assignee pursuant to Sub-section 5.36.1(a) may employ any type, method or technology to harvest pursuant to the terms of this Article that does not:

- (a) conflict with a non-quota limitation on type, method or technology of harvest imposed by the NWMB for a valid conservation purpose as described in Part 30;
- (b) conflict with laws of general application regarding humane killing of wildlife, public safety and firearms control; or
- (c) result in harmful alteration to the environment.

#### PART 38: SPORTS AND NATURALIST LODGES

5.38.1 DIOs shall have the right of first refusal to establish new sports hunting lodges and fishing lodges and naturalist lodges in the Nunavut Settlement Area subject only to the following conditions:

- (a) where an application relates to an area subject to an overlapping claim by a group of aboriginal people, the right of first refusal granted by this Part shall be subject to the consent of that group before being acted upon by Government;
- (b) Government is under no obligation to disclose any matter in an application which has been submitted on the faith of it being kept confidential;
- (c) all material environmental and economic information available to any government agency independent of the application itself but pertinent thereto shall be made available to a DIO exercising the right of first refusal;
- (d) generally, the procedures and time requirements conforming to current practice and, specifically, the steps set out in Schedule 5-7 of this Article shall be followed; and
- (e) if a DIO exercises a right of first refusal, but subsequently fails to establish a new sport lodge or fishing lodge or naturalist lodge in accordance with Schedule 5-7 of this Article without just cause, the Minister may declare that its right of

first refusal has lapsed; in such circumstances, the area may be made available to other applicants and the DIO shall not have a further right of refusal over such applicants, except at the discretion of the Minister.

5.38.2 Upon request, governmental owners of lands in the Nunavut Settlement Area shall lease, at usual rent, adequate and suitable lands and waters to DIOs as are reasonably necessary for the purpose of establishing and operating sports hunting lodges and fishing lodges and naturalist lodges.

5.38.3 All sports hunting lodges and fishing lodges and naturalist lodges referred to in this Part shall be subject to laws of general application.

#### **PART 39: PROPAGATION, CULTIVATION AND HUSBANDRY**

5.39.1 DIOs shall have the right of first refusal to establish and operate facilities for the purpose of indigenous wildlife and reindeer propagation, cultivation or husbandry. The conditions referred to in Sub-sections 5.38.1(a), (b) and (c) in relation to sports hunting lodges and fishing lodges and naturalist lodges shall apply. Procedures and time periods conforming to current practice and comparable to those set out in Schedule 5-7 of this Article shall apply.

5.39.2 Upon request, governmental owners of lands in the Nunavut Settlement Area shall make available to DIOs, at nominal cost, such lands as are adequate, suitable and reasonably necessary for the purpose of establishing and operating facilities for propagation, cultivation or husbandry of

indigenous wildlife or reindeer. The lands may be granted in fee simple, under lease or by licence of occupation or in such other manner as to implement the intent of this Part.

5.39.3 All activities for the purpose of propagation, cultivation or husbandry of indigenous wildlife and reindeer referred to in this Part shall be subject to laws of general application.

5.39.4 Section 5.39.1 does not apply to government facilities.

**PART 40: MARKETING OF WILDLIFE IN THE NUNAVUT SETTLEMENT AREA**

5.40.1 DIOs shall have the right of first refusal to market wildlife, wildlife parts and wildlife products in the Nunavut Settlement Area. The conditions referred to in Sub-sections 5.38.1(a), (b) and (c) in relation to sports hunting lodges and fishing lodges and naturalist lodges shall apply. Procedures and time periods conforming to current practice and comparable to those set out in Schedule 5-7 of this Article shall apply.

5.40.2 All facilities for the marketing of wildlife, wildlife parts and wildlife products referred to in this section shall be subject to laws of general application.

**PART 41: WILDLIFE PARTS AND PRODUCTS**

5.41.1 DIOs shall have the right of first refusal to carry out any venture aimed at the commercial collection or processing of non-edible wildlife parts and wildlife products. The right of first refusal shall extend to non-edible wildlife parts and wildlife products available

as a consequence of kill or as recoverable in an inanimate form. The conditions referred to in Sub-sections 5.38.1(a), (b) and (c) in relation to sports hunting lodges and fishing lodges and naturalist lodges shall apply. Procedures and time periods conforming to current practice and comparable to those set out in Schedule 5-7 of this Article shall apply.

## PART 42: PROVISION OF INFORMATION

5.42.1 Notwithstanding anything else contained herein, an Inuk may be obliged by the appropriate agency of Government to supply any information regarding harvesting activities or harvesting-related activities that laws of general application would require harvesters other than Inuit to supply in comparable circumstances.

## PART 43: ENFORCEMENT

5.43.1 The Final Agreement shall contain provisions dealing with situations in which Inuit harvest without lawful authority. It is agreed, however, as a general principle that any penalties imposed on Inuit in such circumstances shall be just and equitable, and not more severe than those applicable to harvesters other than Inuit in comparable situations.



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**PARTS 44 TO 47: OTHER PROVISIONS**



**PART 44: INTERNATIONAL AND DOMESTIC  
INTERJURISDICTIONAL AGREEMENTS**

5.44.1 All harvesting in the Nunavut Settlement Area shall be subject to legislation implementing the terms of an international agreement. However, the Government of Canada shall make best efforts to

- (a) change any obligations in existing international agreements, and
- (b) avoid entering into any obligations by way of future international agreement,

that limit or tend to limit, either directly or indirectly, the powers and duties of the NWMB or the substance and value of Inuit harvesting rights and opportunities, as defined in this Article.

5.44.2 Insofar as the Government of Canada is party to an international agreement that imposes binding obligations that limit or tend to limit, either directly or indirectly, the substance and value of Inuit harvesting rights and opportunities:

- (a) the Government of Canada shall include Inuit representation in discussions leading to the formulation of the government position in relation to the international agreement, which discussions shall extend beyond those discussions generally available to non-governmental organizations;
- (b) the Government of Canada shall make best efforts to include Inuit representation on any Canadian

delegation to an international meeting that affects the provisions of this Agreement, and if unable to do so, the appropriate Minister shall provide written explanation to a DIO why Inuit representation is not possible; and

(c) the appropriate Minister or his immediate delegate shall meet and consult with Inuit representatives prior to the attendance by the Canadian delegation to an international meeting dealing with the international agreement if reasonably requested to do so by a DIO.

5.44.3 Inuit representatives referred to in Section 5.44.2 shall be nominated by a DIO.

5.44.4 The Government of Canada and Territorial Government shall not enter into or amend a domestic interjurisdictional agreement so that the agreement or amendment:

(a) conflicts in any way with the system of allocation set out in Part 15 to 31 inclusive of this Article; or

(b) establishes any limitations that would have the effect of limiting harvesting by Inuit without first obtaining the approval of the NWMB with respect to such limitation.

5.44.4 For greater certainty, a decision of the NWMB with respect to a matter referred to in Sub-section 5.44.4(b) is subject to Parts 9 and 10.

5.44.5 In the period between the initialling of the Agreement and the establishment of the NWMB, the Government of Canada and the Territorial Government shall not enter into or amend a domestic interjurisdictional agreement so that the agreement or amendment:

- (a) conflicts in any way with the system of allocation set out in Part 15 to 31 inclusive of this Article; or
- (b) does not allow for termination or a withdrawal on no more than six months notice.

5.44.6 Government agrees that the NWMB shall have a role in the negotiation or amendment of domestic interjurisdictional agreements commensurate with its status and responsibilities in the management of wildlife in the Nunavut Settlement Area.

5.44.7 An international agreement or domestic interjurisdictional agreement shall treat Inuit on at least as favourable a basis as any other aboriginal people in Canada.

#### **PART 45: AREAS OF OVERLAP**

5.45.1 Where Inuit and other aboriginal peoples have shared, or share, harvesting areas adjacent to the boundaries of the Nunavut Settlement Area, including areas within the provinces of Quebec and Manitoba, the Government of Canada and Inuit agree to make, during the period before the Final Agreement, best efforts to arrive at satisfactory understandings with all parties affected by the overlaps.

5.45.2 When the NWMB is making a decision regarding wildlife in a portion of the Nunavut Settlement Area which is also being used by aboriginal persons who are party to an adjacent aboriginal land claims settlement agreement, and where the organization responsible for that agreement requests representation to the NWMB, the Minister responsible for Northern Affairs shall appoint to the NWMB a nominee of the responsible organization and may appoint to the NWMB a nominee of Government.

#### **PART 46: ACCESS BY WILDLIFE MANAGERS**

5.46.1 Inuit acknowledge in principle that government personnel need access to Inuit Settlement Lands for the purpose of wildlife management and research. The parties agree that access for such purposes will be subject to the approval of the NWMB subsequent to consultation with the appropriate RWO.

#### **PART 47: PROTECTING THE BOARD AGAINST THIRD PARTY ACTIONS**

5.47.1 The legislation establishing the NWMB shall provide that in discharging any duties or in exercising any powers in good faith pursuant to the legislation, the NWMB shall not be liable to any person, whether natural or artificial, for any loss or damage howsoever occurring.

##### Suits to Protect An Inuk's Interest

5.47.2 Where a right of action accrues to an Inuk, the HTO of which he or she is a member may, with the consent of that Inuk, sue on his or her behalf.

Interpretation

5.47.3 For greater certainty, it is agreed that the Wildlife Provisions of the Final Agreement shall apply to marine areas and that "lands" in Sections 5.33.1 to 5.33.7 shall be interpreted to mean lands, water, ice and seabed. The right of access in Part 33 shall not impede the exercise of the rights of navigation.

SCHEDULE 5-1

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**BIG GAME**

Canis - coyotes and wolves

Gulo - wolverine

Ovibos - muskox

Ursus - bears

Odobenidae - walrus

Cervidae - including caribou, moose, deer and reindeer

SCHEDULE 5-2

  
FURBEARERS

Spermophilus - Arctic ground squirrel  
Tamiasciurus - red squirrels  
Lepus - hares  
Castor - beaver  
Alopex - white fox and arctic fox  
Vulpes - red, cross, black and silver fox  
Canis - wolves and coyotes  
Mustela - ermine, weasels, least weasels and mink  
Gulo - wolverine  
Lutra - otter  
Martes - martens and fishers  
Lynx - lynx  
Ondatra - muskrat  
Ursus - bears  
Mephitis - striped skunk  
Lemmus - brown lemming  
Dicrostonyx - collared lemming  
Synaptomys - northern bog lemming  
Penacomys - heather vole  
Clethrionomys - red-backed vole  
Microtus - meadow vole  
Marmota - marmot, groundhog or woodchuck

SCHEDULE 5-3

MIGRATORY BIRDS

Migratory birds for the purposes of this Schedule include all birds listed within the Migratory Birds Convention Act, related schedules and regulations as of 1987. However, only those migratory birds known to frequent or range close to the Nunavut Settlement Area are listed below.

All family names of migratory birds listed below contain species found in Nunavut and are therefore listed recognizing that some families contain some species not found in the Nunavut Settlement Area.

Part I - Migratory Game Birds

Anatidae - including geese, ducks and swans

Gruidae - including cranes

Rallidae - including rails, coots and gallinules

Columbidae - including pigeons and doves

Charadriidae - including plovers

Scolopacidae - including sandpipers, phalaropes, allies

Limnicolae - shorebirds including godwits, curlews, tattlers, turnstones, woodcocks, snipes, dowitchers and knots

Part II - All Other Migratory Birds of the Nunavut Settlement Area

Gaviidae - including loons

Podicipedidae - including grebes

Procellariidae - including shearwaters, petrels and fulmars

Hydrobatidae - including leach's storm petrels

Sulidae - including gannets

Ardeidae - including the American bittern

SCHEDULE 5-3 (Continued)

Paridae - including titmice and chickadees

Sittidae - including nuthatches

Certhiidae - including creepers

Cinclidae - including the North American dipper

Laridae - including gulls, terns, kittiwakes, skuas, jaegers and skimmers

Alcidae - including auks, murres and puffins, guillemots and auklets

Caprimulgidae - including the common nighthawk

Picidae - including woodpeckers and flickers

Tyrannidae - including tyrant flycatchers and phoebes

Alaudidae - including larks

Hirundinidae - including swallows

Troglodytidae - including the winter and marsh wren

Mimidae - including mockingbirds and thrashers

Muscicapidae - including thrushes, the American robin and the northern wheatear

Motacillidae - including wagtails and pipits

Bombycillidae - including waxwings

Laniidae - including the northern shrike

Vireonidae - including vireos

Fringillidae - including finches and grosbeaks

Emberizidae - including wood warblers, tanagers, sparrows, snow buntings, blackbirds and northern orioles

SCHEDULE 5-4

OATH OF OFFICE FOR MEMBERS OF THE  
NUNAVUT WILDLIFE MANAGEMENT BOARD

I, \_\_\_\_\_ do solemnly affirm (or swear) that I will faithfully, truly, impartially and honestly and to the best of my judgement, skill and ability, execute and perform the duties required of me as a member of the Nunavut Wildlife Management Board. (So help me God.)

SCHEDULE 5-5

TERMS OF REFERENCE FOR THE NUNAVUT WILDLIFE HARVEST STUDY

(To be developed prior to the Final Agreement.)

SCHEDULE 5-6

FURTHER PRESUMPTIONS AS TO NEED

The collection of eiderdown from eider duck nests.

**SCHEDULE 5-7**

**RIGHT OF FIRST REFUSAL REGARDING  
SPORTS AND NATURALIST LODGES**

Steps to be followed when exercising a right of first refusal pursuant to Section 5.38.1.

1. Upon receipt of a letter of interest from an individual other than an Inuk or an organization other than the DIO to establish a sports harvesting, fishing or naturalist lodge, the Territorial Government shall notify the DIO in writing of such interest.
2. The DIO shall have 120 days after receipt of a notice under Paragraph 1 to inform the Territorial Government of its intent to exercise the right of first refusal.
3. The Territorial Government shall have 21 days from receipt of written notice from the DIO to notify the original applicant of the DIO's intentions.
4. The DIO shall have 120 days within which to complete any required community consultations and to register a site specific proposal with the Territorial Government.
5. The Territorial Government shall have 60 days after the completion of the requirements of Paragraph 4 to approve the proposal, with or without conditions, or to reject the proposal.
6. If the proposal is approved, the DIO shall have 230 days within which to acquire any required building permits and to submit copies of all building plans.

SCHEDULE 5-7 (Continued)

7. After having complied with the requirements of Paragraph 6, the DIO shall have 590 days within which to complete all construction and to secure the approval of the appropriate building inspection agencies.
8. The Minister may extend any time periods listed in this schedule when requested by the DIO.

SCHEDULE 5-8

FEDERAL GOVERNMENT UNDERTAKING ON  
INTERJURISDICTIONAL CARIBOU MANAGEMENT

WHEREAS Ministers of Canada, the Northwest Territories, Manitoba, and Saskatchewan propose to enter into an agreement to facilitate joint management of the Kaminuriak and Beverly caribou, and to set up a Caribou Management Board to that end; and

WHEREAS such an agreement should not prejudice negotiations on land claims between Inuit Tapirisat of Canada and the federal government;

IT IS HEREBY AGREED that, if any terms of the agreement settling Inuit Tapirisat of Canada claim prove to be inconsistent with the terms of the proposed intergovernmental agreement on caribou, the federal government undertakes to renegotiate the caribou agreement with the other parties so as to make the caribou agreement consistent with the settlement agreement.

The federal government undertakes to notify the governments of the Northwest Territories, Manitoba, and Saskatchewan of this present agreement.



ARTICLE 6: WILDLIFE COMPENSATION

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## ARTICLE 6: WILDLIFE COMPENSATION

### PART 1: DEFINITIONS AND INTERPRETATION

#### 6.1.1 In this Article:

"claimant" means Inuit, whether individually or collectively, as defined in the Eligibility and Enrolment Provisions;

"compensation" means monetary compensation including cash payment in lump sum or by instalments, and also includes non-monetary compensation such as the cost of temporary or permanent relocation, replacement or repair of property, and reimbursement in kind, subject to conservation limits, or any combination thereof;

"developer" means any person engaged in development activity;

"development" means any commercial or industrial undertaking, any municipal, territorial, provincial or federal government undertaking or extension thereof, on land or water in the Nunavut Settlement area and in Zones I and II referred to in the Marine Areas Provisions, but does not include:

(a) marine transportation; or

(b) any wildlife measure or use approved in accordance with the Wildlife Provisions;

"normal community resupply" (to be defined prior to the Final Agreement);

"wildlife" for the purpose of this Article, means wildlife as defined in the Wildlife Provisions, with the exception of flora.

6.1.2 This Article shall be interpreted in a manner consistent with Canada's sovereignty, sovereign rights and jurisdiction and with Canada's international obligations.

#### **PART 2: APPLICATION**

6.2.1 The wildlife compensation provisions in Inuit Water Rights Provisions and the Entry and Access Provisions apply to damage which can be determined in advance. All other claims for wildlife compensation will be made through the provisions of this Article.

6.2.2 This Article shall apply to marine transportation directly associated with any commercial or industrial or any municipal, territorial, provincial or federal government undertaking, or any extension thereof, on land or water in the Nunavut Settlement Area and in Zones I and II referred to in the Marine Areas Provisions, but does not apply to marine transportation involved in normal community resupply or not directly associated with such undertakings. The Government of Canada shall specify a person, a fund, or both, capable of assuming the liability pursuant to this Article.

6.2.3 Prior to the Final Agreement, the parties will further examine the issue of wildlife compensation with respect to commercial marine transportation through waters in the Nunavut Settlement Area and in Zones I and II referred to in the Marine Areas Provisions other than:

- (a) marine transportation to which this Article applies pursuant to Section 6.2.2; and
- (b) normal community resupply.

#### PART 3: GENERAL PRINCIPLE OF LIABILITY

6.3.1 A developer is liable absolutely, without proof of fault or negligence, for loss or damage suffered by a claimant as a result of its development activity within the Nunavut Settlement Area in respect of:

- (a) loss or damage to property or equipment used in wildlife harvesting or to wildlife reduced into possession;
- (b) present and future loss of income from wildlife harvesting;
- (c) present and future loss of wildlife harvested for personal use by claimants.

6.3.2 A developer is not liable where that developer establishes that the loss or damage was wholly the result of an act of war, hostilities, civil war, insurrection, or natural phenomenon of an exceptional, inevitable and irresistible character.

6.3.3 Claimants shall make all reasonable attempts to mitigate against any loss or damage.

6.3.4 Legislation may provide for appropriate limits of liability of developers or the methods of setting such

limits and shall also require proof of fiscal responsibility and may also provide for security deposits and any other matters not inconsistent with this Article. Recognizing Inuit concerns regarding collection of compensation, Government will give consideration to including enforcement mechanisms. Limits on liability will be set at levels sufficient to cover reasonably foreseeable damages in relation to various development activities.

#### PART 4: PROCEDURE FOR MAKING A CLAIM

- 6.4.1 A claimant, or a Designated Inuit Organization (DIO) or Hunters and Trappers Organization (HTO) on behalf of a claimant, shall make a claim for loss or damage in writing to the developer. If the claim is not settled within 30 days, either party may submit the claim to the Surface Rights Tribunal ("the Tribunal").
- 6.4.2 For the purposes of this Article only, a claimant may also bring before the Tribunal claims in respect of development activities in Zones I and II referred to in the Marine Areas Provisions, and the claim will be dealt with in accordance with this Article.
- 6.4.3 In hearing a claim, the Tribunal is not bound by strict rules of evidence and may take into account any material which it considers relevant. The Tribunal in hearing a claim shall give due weight to Inuit knowledge of wildlife and the environment and shall take into account the social, cultural and economic importance of wildlife to Inuit. The Tribunal may appoint experts and may call witnesses.

6.4.4 As a general principle, compensation shall not be a guaranteed annual income in perpetuity. A compensation award may be reviewed by the Tribunal at the request of either party.

6.4.5 A claim must be made within three years of the date on which the loss or damage occurred, or within three years of the date on which the loss or damage became known to the claimant.

6.4.6 The Tribunal shall hear the case and determine liability and compensation. The Tribunal shall make a decision within 30 days of completing the hearing of a claim.

6.4.7 Recognizing that it is the intention that loss or damage suffered by a claimant should be minimized by expeditious processing of claims and payment of compensation, the Tribunal may:

- (a) deal with a claim in respect of loss or damage to property or equipment used in wildlife harvesting or to wildlife reduced into possession before proceeding to hear evidence on any other loss or damage;
- (b) require that interest be paid on monetary compensation at a rate set by the Tribunal;
- (c) provide for additional compensation to cover any additional loss or damage, and costs, including costs of collection that may result from any delay in fulfilling the terms of a compensation decision.

6.4.8 At the request of a claimant, the Tribunal shall register the compensation decision in the Superior Court having jurisdiction over the Nunavut Settlement Area and the claimant may use that court to enforce the decision. The Tribunal may provide assistance in the enforcement of its decision.

6.4.9 When the Tribunal decides where to hold a hearing, the convenience of the claimant shall be a major factor.

6.4.10 When the Tribunal determines that loss or damage was caused by more than one developer, those developers shall be severally liable. The Tribunal shall apportion liability in accordance with generally accepted principles of statute and common law.

6.4.11 The expenses incurred by the Tribunal in determining claims under this Article shall not be borne by the claimant nor any DIO or HTO acting on behalf of a claimant. The costs incurred by an HTO acting on behalf of a claimant shall not be the responsibility of the Nunavut Wildlife Management Board.

#### **PART 5: OTHER MATTERS**

6.5.1 Where an Inuit Impact and Benefit Agreement includes wildlife compensation provisions, that agreement shall preclude the need to address wildlife compensation under the Inuit Water Rights and Entry and Access Provisions.

6.5.2 In negotiating an Inuit Impact and Benefit Agreement, or an agreement referred to in Section 6.6.2, the parties to such negotiations are not limited to the definition of loss or damage in this Article. Subject to this

section, for all other purposes of the Agreement, wildlife compensation shall be interpreted to mean compensation for that loss or damage referred to in Section 6.3.1.

6.5.3 Government recognizes Inuit concerns that Section 3(1) of the Arctic Waters Pollution Prevention Act RSC 1970 (1st Supp.) C.2 should be amended to include within the definition of "arctic waters" the whole of Hudson Bay that is not part of a province, and Government further agrees to address this concern in negotiations leading to the Final Agreement.

#### PART 6: SAVINGS

6.6.1 The provisions of this Article are without prejudice to any other rights or remedies that the claimant may have under laws of general application with respect to loss or damage arising out of development activity. However, if either party refers a claim to the Tribunal, the decision of the Tribunal shall be conclusive in relation to all losses or damages described in Sub-sections 6.3.1(a), (b) and (c), subject only to review by the Federal Court of Appeal under Section 28 of the Federal Court Act, RSC 1970 (2nd Supp.), C.10. If a claim against a developer is dismissed, a claimant is not precluded from claiming the same loss or damage against a different developer.

6.6.2 Nothing in this or any other Article relating to wildlife compensation prevents Inuit and a developer from entering into a wildlife compensation agreement that would replace all other obligations in relation to wildlife compensation under this Agreement.



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**ARTICLE 7: OUTPOST CAMPS**

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## ARTICLE 7: OUTPOST CAMPS

### PART I: DEFINITIONS AND INTERPRETATION

7.1.1 Outpost camps are camps occupied by families or other groups of Inuit who occupy particular locations on a temporary, seasonal, intermittent, semi-permanent or a year round basis for the purposes of wildlife harvesting and the associated use and enjoyment of lands, and the said locations include

- (a) the residential base, and
- (b) the surface lands on which the residential base rests and the surface of lands within a distance of two kilometres from the centre of the residential base,

but outpost camps do not include randomly occupied locations used only for periods of several days or weeks.

7.1.2 This Article shall be interpreted so as to be consistent with the Wildlife Provisions.

### PART 2: LANDS AVAILABLE AS OUTPOST CAMPS

7.2.1 Inuit may, subject to the terms of the Agreement, continue to occupy outpost camps identified in a schedule to the Final Agreement.

7.2.2 From the date of the Final Agreement, Inuit may, subject to the exceptions mentioned in Sections 7.2.3 and 7.2.4, establish and occupy new outpost camps in any lands in the Nunavut Settlement Area where Inuit enjoy a general

right of access for the purpose of wildlife harvesting as described in Part 33 of the Wildlife Provisions.

7.2.3 Outpost camps shall not be established on lands:

- (a) that are held under a surface lease; or
- (b) that fall within municipal boundaries, without the approval of the municipality, provided that such approval shall not be unreasonably withheld.

7.2.4 Inuit may establish outpost camps in Parks or Conservation Areas, except where the establishment of such camps is inconsistent with the requirements of park management or the principles of conservation, as provided for in the Wildlife Provisions. Site locations shall be determined as provided by an Inuit Impact and Benefit Agreement between the Designated Inuit Organization (DIO) and the appropriate management agency.

### PART 3: TENURE OF OUTPOST CAMPS

7.3.1 Inuit shall occupy the outpost camps referred to in Sections 7.2.1 and 7.2.2 as tenants-at-will.

7.3.2 A tenancy-at-will shall continue until Inuit occupants receive notice from Government of an intention to make use of the lands so occupied for purposes that would be inconsistent with the presence of the camp, or would remove the lands from the general right of access by Inuit for wildlife harvesting as described in Part 33 of the Wildlife Provisions. Upon receipt of written notice, the occupants shall have a reasonable period of time within which to remove their possessions.

7.3.3 Where Inuit notify Government of their actual or intended occupation of an outpost camp and where Government does not identify in writing any use or interest that would be inconsistent in the immediate future with the presence of the camp, Inuit may, notwithstanding anything in Section 7.3.2, continue to occupy the camp until one year after Government has given notice in writing of an intention to make use of the lands.

#### **PART 4: GOVERNMENT TO MAKE LANDS AVAILABLE**

7.4.1 Upon request by potential occupiers of outpost camps or by a DIO on their behalf, governmental owners of lands in the Nunavut Settlement Area shall make available, such lands as are adequate, suitable and reasonably necessary for the purpose of establishing outpost camps. The lands may be provided under lease or by licence of occupation or in such other manner as to implement the intent of this section. The term shall be for five years or such longer period as may be reasonable. Renewal of a lease, upon request by the occupiers or by the DIO on their behalf, shall not be unreasonably withheld.

#### **PART 5: GENERAL RIGHTS**

7.5.1 Inuit occupying or establishing outpost camps shall not be liable to pay any fee, levy, rent or like tax for the purpose of such occupation or establishment, associated with the purposes of wildlife harvesting.

7.5.2 The holders of rights in the subsurface of lands occupied as outpost camps shall enjoy the same rights of access as are available to subsurface rights holders through

common law or statute.

7.5.3 Government agrees, as a general principle, that the internal operation and management of outpost camps shall be left to the discretion of Inuit occupying the camp, in conformity with Inuit customary law. Consistent with whatever general provisions exist in the Final Agreement in relation to the application of Inuit customary law and the relationship between Inuit customary law and laws of general application, the Final Agreement may specify that certain laws of general application shall not apply, in whole or part, to outpost camps.

#### PART 6: OTHER MATTERS

7.6.1 Government agencies responsible for the management of wildlife, lands, resources or the offshore shall endeavour to protect the interests and well-being of Inuit that occupy outpost camps.

7.6.2 Nothing in the Agreement shall prevent outpost camps from becoming communities or municipalities as defined in the Municipal Lands Provisions.

7.6.3 Inuit may establish outpost camps on archaeological sites. The Inuit Heritage Trust may develop policy guidelines for the use and occupation of archaeological sites. The Trust may put in place terms and conditions regarding the use and occupation of a site or sites.

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## ARTICLE 8: PARKS

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## ARTICLE 8: PARKS

### PART 1: DEFINITIONS

8.1.1 As used in this Article and other parts of the Agreement:

"National Park" and "National Marine Park" mean

- (a) an area that has been formally and fully dedicated a national park or national marine park under the National Parks Act, and
- (b) a National Park Reserve, with respect to the provisions dealing with an Inuit Impact and Benefit Agreement (IIBA) and all the provisions providing Inuit with an opportunity to secure economic benefits from the establishment and operation of a national park in the Nunavut Settlement Area;

"Park" means a National Park, a National Marine Park, or a Territorial Park;

"Territorial Park" means an area that has been formally and fully dedicated as a territorial park under the Territorial Parks Act.

### PART 2: NATIONAL PARKS

#### General Desirability

8.2.1 The parties agree to the general desirability of establishing National Parks in the Nunavut Settlement Area.

Identification of Possible National Parks

8.2.2 Within three months of the date of the Agreement the Canadian Parks Service shall supply the Designated Inuit Organization (DIO) with:

- (a) a list of
  - (i) National Park Reserves,
  - (ii) Potential National Parks,
  - (iii) Natural Areas of Canadian Significance, and,
  - (iv) Preliminary Study Areas;
- (b) maps delineating the areas referred to in Sub-section (a); and
- (c) copies of all written reports and other materials respecting the areas referred to in Sub-section (a).

8.2.3 Further to Section 8.2.2, the Canadian Parks Service shall, at the same time:

- (a) identify at least one of the areas referred to in Sub-section 8.2.2(a) in each of the natural regions, hitherto identified by the Canadian Parks Service, as being wholly or partially within the Nunavut Settlement Area; and
- (b) where it has identified more than one area in any particular region, rank such areas in order of its preference.

Relationship to Inuit Settlement Lands Identification Process

8.2.4 During the Inuit Settlement Lands identification process, the interests of the Canadian Parks Service shall not be a constraint on Inuit land ownership in:

- (a) areas not identified in Sub-section 8.2.2(a); or
- (b) areas identified in Sub-section 8.2.2(a), but not falling within an areas ranked first in preference, further to Sub-section 8.2.3(b).

8.2.5 Where, during the Inuit Settlement Lands identification process, Inuit seek to own lands in areas ranked first in preference further to Sub-section 8.2.3(b), and the Government of Canada is not agreeable to Inuit ownership of such lands, Inuit ownership shall be negotiated on a case-by-case basis.

8.2.6 The Final Agreement shall provide for the establishment, within a reasonable time period, of at least three National Parks in the Nunavut Settlement Area. Except as otherwise agreed to by the DIO and the Government of Canada, the Final Agreement shall provide that Inuit Settlement Lands, as identified through the Inuit Settlement Lands identification process shall not be included as part of such parks.

8.2.7 Where necessary, the Final Agreement shall provide for the withdrawal of the lands associated with the three National Parks referred to in Section 8.2.6, in accordance with the Territorial Lands Act.

### Boundaries

8.2.8 The obligation of the Canadian Parks Service to delineate areas pursuant to Section 8.2.2 shall be an obligation to delineate areas in broad outline only, and shall not be an obligation to supply precise boundaries. The precise boundaries of the National Parks referred to in Section 8.2.6 shall be defined through a process, accompanied by extensive public consultation.

8.2.9 Where the Government of Canada at any time intends to re-draw the boundaries of a National Park, or otherwise act, so as to remove lands from a National Park, it shall:

- (a) first conduct an extensive process of public consultation; and
- (b) offer the lands to a DIO
  - (i) at a favourable price where the Government of Canada intends to dispose of the land, or
  - (ii) at the election of the DIO, in exchange for a comparable amount of Inuit Settlement Lands; but this election shall not apply in circumstances where the Government of Canada intends to remove the lands from National Park status solely for the purpose of establishing its own facilities or operations on the lands in question.

### Establishment Prior to Final Agreement

8.2.10 No National Park shall be established in the Nunavut Settlement Area prior to a Final Agreement coming into force, or at such other time as may be mutually agreeable to the parties. For greater certainty, this prohibition shall not be interpreted so as to prevent the continuation of any of the operations of the Canadian Parks Service conducted in the Nunavut Settlement Area as of July 1, 1983.

Involvement of Inuit - Generally

8.2.11 The parties agree to the general desirability of involving Inuit, and other local residents, in the planning and management of National Parks in the Nunavut Settlement Area. Accordingly, the parties agree that, in addition to all other rights and benefits of these provisions, Inuit and other local residents of the Nunavut Settlement Area shall be involved in the planning and management of National Parks in the Nunavut Settlement Area on at least as favourable a basis as is the case in any other part of Canada.

8.2.12 Where the Government of Canada, the Territorial Government and the DIO are agreeable, the Territorial Government may be made a party to the negotiation and conclusion of an IIBA pertaining to a National Park.

Park Management

8.2.13 Subject to provisions of an IIBA in relation to a National Park, each National Park in the Nunavut Settlement Area shall contain a predominant proportion of Zones I and II, as such zones are defined in the Parks

Canada Policy approved by Cabinet in 1979.

8.2.14 The process of establishing new National Parks in the Nunavut Settlement Area after the date of the ratification of the Final Agreement shall be subject to the Land Use Planning and Development Impact Provisions of the Final Agreement, but these provisions shall not apply to any National Park Reserve established prior to ratification.

8.2.15 The Land Use Planning Provisions of the Final Agreement shall not apply to or within the boundaries of National Parks, once established. The Development Impact Provisions shall apply to projects proposals in National Parks and National Park Reserves.

Water

8.2.16 The Final Agreement shall indicate the extent to which any provisions of this Agreement dealing with water rights and management in the Nunavut Settlement Area generally shall apply to waters within National Parks in the Nunavut Settlement Area.

Marine Parks

8.2.17 This Article shall apply to National Marine Parks in marine areas except that the parties shall examine zoning and other issues relating to National Marine Parks prior to the Final Agreement. Sub-section 8.2.9(b) shall apply only to onshore areas and islands within National Marine Parks.

### General Desirability

8.3.1 The parties agree to the general desirability of establishing Territorial Parks in the Nunavut Settlement Area.

### Identification of Possible Territorial Parks

8.3.2 During the Inuit Settlement Lands identification process, the Territorial Government shall, to the extent possible, supply the DIO with:

- (a) a list of all existing Territorial Parks;
- (b) a list of proposed or potential territorial parks, including
  - (i) Community Parks,
  - (ii) Natural Environment Recreation Parks,
  - (iii) Outdoor Recreation Parks,
  - (iv) Historic Parks;
- (c) maps delineating the areas referred to in Sub-sections (a) and (b); and
- (d) copies of all written reports and other materials respecting the areas referred to in Sub-sections (a) and (b).

8.3.3 The identification of proposed or potential territorial parks by the Territorial Government shall not imply any obligation that lands be made available for Territorial Parks.

Relationship to Inuit Settlement Lands Identification Process

8.3.4 In general, all areas described in Section 8.3.2 are available to Inuit for identification as areas of Inuit Settlement Lands title. However, where Inuit seek to own all or a portion of Territorial Parks in existence as of the date of the Agreement, Inuit ownership shall be negotiated on a case-by-case basis.

Boundaries

8.3.5 The obligation of the Territorial Government to delineate areas pursuant to Sub-section 8.3.2(c) shall be an obligation to delineate areas in broad outline only, and shall not be an obligation to delineate precise boundaries. The precise boundaries of the Territorial Parks referred to in Sub-section 8.3.2(c) shall be defined through a process, accompanied by extensive public consultation.

8.3.6 Where the Territorial Government at any time intends to re-draw the boundaries of a Territorial Park, or otherwise act, so as to remove lands from a Territorial Park, it shall:

(a) first conduct an extensive process of public consultation; and

(b) offer the lands to a DIO

- (i) at a favourable price where the Territorial Government intends to dispose of the lands, or
- (ii) at the election of the DIO, in exchange for a comparable amount of Inuit Settlement Lands; but this election shall not apply in circumstances where the Territorial Government intends to remove the lands from Territorial Parks status solely for the purpose of establishing its own facilities or operations on the lands in question.

#### Involvement of Inuit - Generally

##### 8.3.7

The Territorial Government and Inuit agree to the general desirability of involving Inuit, and other local residents, in the planning and management of Territorial Parks in the Nunavut Settlement Area. Accordingly, they agree that, in addition to all other rights and benefits of these provisions, Inuit and other local residents of the Nunavut Settlement Area shall be involved in the planning and management of Territorial Parks in the Nunavut Settlement Area.

#### Planning and Water

##### 8.3.8

Notwithstanding any other provision of the Agreement,

- (a) the process of establishing new Territorial Parks in the Nunavut Settlement Area after the date of the ratification of the Final Agreement shall be

subject to the Land Use Planning and Development Impact Provisions of the Final Agreement;

- (b) the Land Use Planning Provisions of the Final Agreement shall not apply to or within the boundaries of Territorial Parks once they have been established;
- (c) the Development Impact Provisions of the Final Agreement shall apply to project proposals in Territorial Parks; and
- (d) the Inuit Water Rights and Water Provisions of the Final Agreement shall apply to waters in Territorial Parks in the Nunavut Settlement Area.

8.3.9 This Article shall apply to marine areas to the extent that the Territorial Government has jurisdiction to establish Territorial Parks in marine areas. Sub-section 8.3.6(b), shall apply only to onshore areas and islands within Territorial Parks.

8.3.10 When the Territorial Government and the affected DIOs agree, they may negotiate Inuit participation in the planning and management of Territorial Parks on a regional or by a territorial park category basis.

**PART 4: GENERAL PROVISIONS APPLICABLE TO BOTH  
NATIONAL PARKS AND TERRITORIAL PARKS**

**Generally**

8.4.1 The following provisions shall apply to National Parks established by the Government of Canada and Territorial

Parks established by the Territorial Government.

Inuit Impact and Benefit Agreements (IIBAs)

8.4.2 No Park shall be established in the Nunavut Settlement Area until the obligations set out in Sections 8.4.3 and 8.4.4 have been complied with.

8.4.3 Prior to the establishment of a Park in the Nunavut Settlement Area, the appropriate Government, and in the case of the Government of Canada, the Canadian Parks Service in concert with other affected federal government agencies, and a DIO shall negotiate, in good faith, for the purpose of concluding an IIBA. An IIBA negotiated under this Article shall include any matter connected with the proposed park that would have a detrimental impact on Inuit, or that could reasonably confer a benefit on Inuit either on a Nunavut-wide, regional or local basis. In particular, but without limiting the generality of the foregoing, the matters identified in Schedule 8-1 shall be considered appropriate for negotiation and inclusion within an IIBA in relation to a Park.

8.4.4 If the appropriate Government and the DIO cannot agree on the terms of an IIBA in a reasonable period of time, they shall select a conciliator who shall submit a report to the Minister, for his consideration and decision. The obligation to conclude an IIBA with respect to any proposed park, shall endure only as long as the other party is acting in good faith and reasonably. This section shall not depart from the requirement of Sections 8.4.11 to 8.4.13.

8.4.5 With respect to Territorial Parks that have been identified prior to and continue to exist at the date of the Final Agreement, the Territorial Government and DIO are obligated to conclude an IIBA prior to the seventh anniversary of the Final Agreement.

8.4.6 Except where an IIBA in good standing indicates otherwise, every agreement shall be re-negotiated at least every seven years.

8.4.7 The Final Agreement may contain, by way of schedule, an IIBA with respect to at least one proposed park.

Other Inuit Economic Benefits

8.4.8 Where Government intends to contract for the establishment, operation or maintenance of park facilities in the Nunavut Settlement Area, Government shall:

(a) give preferential treatment to qualified Inuit contractors where Government proposes to tender such contracts; and

(b) ensure that all contractors give preferential treatment to Inuit.

8.4.9 A DIO shall have the right of first refusal to operate all business opportunities and ventures that are contracted out with respect to parks in the Nunavut Settlement Area. Upon request, Government shall make available to a DIO all reports and other materials in its possession relevant to the analysis of the economic feasibility of business opportunities and ventures in

parks in the Nunavut Settlement Area.

8.4.10 Sections 8.4.8 and 8.4.9 shall not restrict the provisions of an IIBA in relation to a proposed park in the Nunavut Settlement Area that deals with economic benefits for Inuit.

#### Management

8.4.11 A joint Inuit/Government parks planning and management committee ("the Committee") shall be established through the IIBA when requested either by Government or a DIO. The Committee shall consist of equal numbers of members appointed by the appropriate DIO and the appropriate territorial or federal Minister responsible for Parks. It is the intention of this section that there shall be separate committees for Territorial and National Parks.

8.4.12 The Committee may advise the Minister or his designate, the Nunavut Wildlife Management Board, or other agencies, as it deems appropriate, on all matters related to park management.

8.4.13 Management plans for Parks shall be developed within five years of the establishment of a Park by the Canadian Parks Service for National Parks and by the Territorial Government for Territorial Parks. Such plans shall be based on the recommendations of the Committee, taking into account the recommendations of other interests. Park management plans shall be submitted to the Minister for his consideration and approval.

#### Inuit Access

8.4.14 In addition to any other rights of access and use enjoyed by or flowing to Inuit, Inuit have entry at no cost into Parks.

Information

8.4.15 Government shall make available Inuktitut translations of its publications that are aimed at informing the Canadian public about Parks in the Nunavut Settlement Area, and any information disseminated or communicated to the public within any Parks in the Nunavut Settlement Area shall be equally prominent in one or more of Canada's official languages and in Inuktitut.

New Parks

8.4.16 The establishment of Parks not contemplated at the date of, and in the provisions of, the Final Agreement, as well as the expansion of a Park, shall be subject to the provisions dealing with the negotiation of an IIBA and all the provisions providing Inuit with an opportunity to secure economic benefits from the establishment and operation of Parks in the Nunavut Settlement Area.

Dedication

8.4.17 Appropriate recognition shall be made of Inuit history and presence as part of the process of the establishment and operation of a Park.

Interpretation

8.4.18 In the event of a conflict between these provisions and the Wildlife Provisions, the Wildlife Provisions shall prevail.

SCHEDULE 8-1

MATTERS APPROPRIATE FOR INUIT IMPACT AND BENEFITS AGREEMENTS  
IN RELATION TO PARKS

1. Inuit training at all levels.
2. Inuit preferential hiring.
3. Employment rotation reflecting Inuit needs and preferences.
4. Scholarships.
5. Labour Relations.
6. Business opportunities for Inuit in relation to all parks services and facilities including:
  - (a) provision of seed capital;
  - (b) provision of expert advice;
  - (c) tourist packages and promotion.
7. Housing, accommodation and recreation for Inuit working in the park services and at park facilities including their dependents.
8. Language of work in park services and at park facilities.
9. Inuit access to park services and park facilities.
10. Routes and locations of access to the Park.

SCHEDULE 8-1 (continued)

11. Important environmental concerns, particularly disruption of wildlife, including measures for protection and conservation.
12. Outpost camps.
13. Insofar as use of the Park affects Inuit, such matters as:
  - (a) land use activities permitted in the Park;
  - (b) zones and other matters requiring special protection, limitations or restrictions on use; and
  - (c) types, forms and modes of technology and transportation permitted.
14. Information flow and interpretation including liaison between Inuit and the appropriate park agency regarding park management and Inuit participation and concern.
15. Relationship to prior and subsequent IIBAs.
16. Arbitration and amendment provisions.
17. Implementation and enforceability.
18. Any other matters the parties consider to be relevant to the needs of the Park and Inuit.



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## ARTICLE 9: CONSERVATION AREAS

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## ARTICLE 9: CONSERVATION AREAS

### PART 1: GENERAL

9.1.1 In addition to Parks, both parties agree that other areas that are of particular significance for ecological, cultural, research and similar reasons, require special protection. The parties further agree that Inuit shall enjoy special rights and benefits with respect to these areas.

### PART 2: DEFINITION

9.2.1 The following areas shall be included as Conservation Areas for the purpose of this Agreement:

- (a) National Wildlife Areas;
- (b) Migratory Bird Sanctuaries;
- (c) International Biological Program Ecological Sites/Ecological Areas;
- (d) Man and the Biosphere Reserves;
- (e) World Heritage Convention/Natural and Cultural Sites;
- (f) Wildlife Sanctuaries;
- (g) Critical Wildlife Areas;
- (h) National Historic Sites;

- (i) National Historic Parks;
- (j) Wetlands of International Importance for Waterfowl (Ramsar);
- (k) Canadian Landmarks;
- (l) Canadian Heritage Rivers;
- (m) Historic Places;
- (n) other areas of particular significance for ecological, cultural, research and similar reasons; and
- (o) areas which may at any time in the future fall within the meaning of sub-sections (a) to (n).

9.2.2 The Final Agreement may contain a schedule listing Conservation Areas that will be dedicated for one or more of the uses described in Section 9.2.1

**PART 3: INUIT IMPACT AND BENEFIT AGREEMENTS  
AND OTHER ECONOMIC BENEFITS**

9.3.1 Sections 8.2.11, 8.2.12 and 8.4.2 to 8.4.13 of the Parks Provisions shall apply in like manner to Conservation Areas and to government agencies having responsibilities with respect to Conservation Areas. Notwithstanding Sections 8.4.2 and 8.4.3 of the Parks Provisions, in cases of emergency, such as the establishment of a critical wildlife area, the Inuit Impact and Benefit Agreement (IIBA) may be concluded forthwith upon, rather than prior to, the establishment of the protected area.

9.3.2 Notwithstanding Sections 8.4.2 and 8.4.3 of the Parks Provisions, the obligation to conclude an IIBA with respect to Conservation Areas shall:

- (a) not apply to a Conservation Area so long as the Conservation Area does not raise any matter that would have a detrimental impact on Inuit or that could reasonably confer a benefit on Inuit;
- (b) with respect to Conservation Areas that have been identified prior to and continue to exist at the date of the Final Agreement, be an obligation to conclude an IIBA prior to the seventh anniversary of the Final Agreement; and
- (c) apply in any situation where it is intended that a Conservation Area established for one purpose be re-established for a different purpose where such re-establishment would have a detrimental impact on Inuit or could reasonably confer a benefit on Inuit.

9.3.3 Sections 8.4.15 and 8.4.17 of the Parks Provisions shall apply in the like manner to Conservation Areas and to government agencies having responsibilities with respect to Conservation Areas.

#### **PART 4: CONSERVATION AND MANAGEMENT**

9.4.1 The parties agree that in order to ensure the general integrity of qualities particular to Conservation Areas, new legislation or specific amendments to existing legislation may be necessary. Negotiations towards the Final Agreement shall focus on the need for legislative

action, it being understood that such negotiations shall not involve any diminution of the various rights provided for Inuit under this Article.

9.4.2 The Land Use Planning and Development Impact Provisions shall apply to Conservation Areas. The Land Use Planning Provisions, however, shall not apply to or within the boundaries of National Historical Parks or Sites, once established.

9.4.3 The Water Management and Inuit Water Rights Provisions shall apply to Conservation Areas.

#### PART 5: APPLICATION

9.5.1 In the event of any conflict between this Article and the Wildlife Provisions, the Wildlife Provisions shall prevail.

9.5.2 This Article shall apply to marine areas.

9.5.3 When Government and the Designated Inuit Organization agree, the parties may negotiate Inuit participation in the planning and management of Conservation Areas on a regional and site category basis.

## LAND AND RESOURCE MANAGEMENT



ARTICLE 10: ESTABLISHMENT OF CERTAIN STRUCTURES

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## ARTICLE 10: ESTABLISHMENT OF CERTAIN STRUCTURES

### PART 1: UNDERTAKINGS TO ESTABLISH

10.1.1 The Government of Canada undertakes that the following structures will be established as institutions of public government according to the following timetable:

- (a) the Nunavut Wildlife Management Board (NWMB) immediately upon ratification of the Final Agreement (prior to Final Agreement, the parties shall decide more precisely the timing for the establishment of the NWMB and whether Section 10.7.1 shall apply to the NWMB);
- (b) the Surface Rights Tribunal within six months of ratification of the Final Agreement; and
- (c) the following boards, namely,
  - (i) the Nunavut Impact Review Board (NIRB),
  - (ii) the Nunavut Planning Policy Committee (NPPC),
  - (iii) the Nunavut Planning Commission, and (NPC),
  - (iv) the Nunavut Water Board (NWB),within two years of the ratification of the Final Agreement.

Without in any way limiting the undertaking of the Government of Canada, these institutions shall be established by legislation of the Legislative Assembly

to the extent that it has jurisdiction.

**PART 2: MANNER OF IMPLEMENTATION**

10.2.1 All substantive powers, functions, objectives and duties of the structures referred to in Section 10.1.1 shall be set out in statute. Matters that do not touch upon the substantive powers, functions, objectives or duties of the structures may be implemented through regulation, but the discretion to implement through regulation shall in no way be construed so as to broaden the powers set out in Section 10.6.1 and Section 10.7.1.

**PART 3: ADDITIONAL DUTIES**

10.3.1 Legislation implementing a provision of the Articles relating to the structures referred to in Section 10.1.1 may provide for other matters not dealt with in the said Articles, and may assign additional powers, functions, objectives or duties to the said structures.

**PART 4: CO-ORDINATION OF EFFORTS**

10.4.1 Legislation implementing a provision of the Agreement may, subject to any matter contained in the Final Agreement, enable the said structures to co-ordinate the discharge of their powers, functions or duties with other similar structures having jurisdiction over areas adjacent to the Nunavut Settlement Area.

**PART 5: DISCLOSURE OF INFORMATION**

10.5.1 The structures referred to in Section 10.1.1 shall in obtaining and disclosing information be subject to laws

of general application relating to confidentiality of and access to information as if they were government departments. Where Government has a discretion to disclose any information to the structure, or a structure has a discretion to disclose information to a member of the public, it shall take into account the objects of the Final Agreement in exercising that discretion.

#### PART 6: CONSOLIDATION AND REALLOCATION

10.6.1 Notwithstanding any other provision of the Final Agreement, the Parliament of Canada or the Legislative Assembly, insofar as each has authority to do so, may by statute amend any legislation implementing a provision of those Articles relating to the structures referred to in Sub-sections 10.1.1(b) and (c) so as to consolidate or reallocate the functions of the said structures, or to enable the consolidation of hearings conducted by the said structures, but any such amending statute shall not diminish or impair the combined powers, functions, objectives or duties of the several structures, or increase the powers of Government in relation thereto; and, without limiting the generality of the limitation, such statute shall:

(a) preserve the following as discrete functions

(i) planning policy functions,

(ii) land use planning functions,

(iii) screening functions,

(iv) development impact review functions, and

- (v) water use approval functions (except that Paragraphs (iv) and (v) need not be discrete from each other);
- (b) not alter any requirement that a development proposal or application conforms to or with a Land Use Plan or is exempt from such requirement before any decision to screen a development proposal or application is made;
- (c) except where the Final Agreement otherwise permits, not alter any requirement that a development proposal or application be screened and reviewed, or screened or reviewed, as the case may be, before any approval, licence or project certificate is granted;
- (d) not reduce the level of monitoring provided for in the Final Agreement;
- (e) not prejudice the ability of the said structures to obtain relevant information or exercise subpoena powers where provided for in the Final Agreement;
- (f) not reduce the level of public participation or prejudice the ability of members of the public to participate in the proceedings of the said structures; and
- (g) not alter the right of a member of the public to be heard by the said structures in Inuktitut, or alter the obligation of the said structures to conduct their business in Inuktitut.

10.6.2 Prior to Final Agreement the parties shall address when the amending powers in Section 10.6.1 shall come into effect.

**PART 7: VARYING CERTAIN ADMINISTRATIVE MATTERS**

10.7.1 Notwithstanding any other provision of the Final Agreement, the Parliament of Canada or the Legislative Assembly may in its implementing statutes for the structures referred to in Sub-sections 10.1.1(b) and (c), vary from the provisions of the Final Agreement with respect to the following administrative matters:

- (a) the total number of members, provided that the number to be appointed upon nomination by a Designated Inuit Organization (DIO) respects the membership ratio and the opportunity for regional representation;
- (b) the terms of office of members or the reappointment of members, provided there be reasonable continuity in membership;
- (c) information to be provided to a structure, subject to the limitation set out in Sub-section 10.6.1(e);
- (d) the authority of a structure in respect of officers and experts; and
- (e) with respect to the Development Impact Provisions
  - (i) the extension or, with the approval of NIRB, shortening of deadlines for actions,

(ii) the number of members required for a quorum for NIRB,

(iii) matters governed by Section 12.5.4 and by by-laws made by NIRB referred to in Section 12.2.22 of the Development Impact Provisions, subject to the limitations set out in Sub-sections 10.6.1(e), (f) and (g), and

(iv) the list of matters NIRB is required to take into account when reviewing a project proposal or application provided the ability of NIRB to take into account matters relevant to its mandate is not impaired.

10.7.2 Notwithstanding any other provision of the Final Agreement, where the Parliament of Canada or Legislative Assembly has allowed for the administrative matters referred to in Section 10.7.1 to be regulated by the Governor-in-Council or Commissioner-in-Executive Council, their regulations may vary from provisions of the Final Agreement with respect to administrative matters referred to in Section 10.7.1 subject to the limitations specified therein.

10.7.3 Prior to Final Agreement the parties shall address when the powers to vary, referred to in Section 10.7.1, shall come into effect.

#### PART 8: CONSULTATION

10.8.1 Government shall consult closely with the DIO and the relevant structure referred to in Sub-sections 10.1.1(b)

or 10.1.1(c) prior to taking any initiative under Section 10.6.1, 10.7.1, or 10.7.2. The appropriate DIO or structure shall, upon request, be given an audience with the appropriate Minister as part of such consultation.

#### **PART 9: RECIPROCAL REPRESENTATION**

10.9.1 The right of representation by beneficiaries of, or participants in, an aboriginal land claims settlement in an area that is adjacent to the Nunavut Settlement Area on the NWMB, NPC, NWB, and NIRB shall be conditional upon the reciprocal right of representation by Inuit on similar bodies in the adjacent settlement area.

#### **PART 10: INTERIM MEASURES**

10.10.1 Between ratification of the Agreement and the signing of the Final Agreement, TFN and Government shall address interim management arrangements that could apply in the period between ratification of the Final Agreement and the enactment of legislation implementing the structures referred to in Section 10.1.1.



## ARTICLE 11: LAND USE PLANNING



## ARTICLE 11: LAND USE PLANNING

### PART 1: APPLICATION

11.1.1 Until such time as the land use planning provisions of the Final Agreement are implemented, land use planning in the Nunavut Settlement Area shall be conducted according to the July 28, 1983 Basis of an Agreement for Land Use Planning in the NWT, subject to any interim changes that may be agreed to by the Tungavik Federation of Nunavut or its successor and Government.

11.1.2 In this Article, the words "land" and "land use" include lands, waters and resources.

11.1.3 Notwithstanding anything in this Article, the implementation of land use plans shall be the responsibility of appropriate government departments and agencies.

11.1.4 This Article applies to both land and marine areas within the Nunavut Settlement Area and the Marine Boundary - East Baffin Coast Provisions.

### PART 2: PLANNING PRINCIPLES, PRIORITIES AND OBJECTIVES

11.2.1 The following principles shall guide the development of planning policies, priorities and objectives:

(a) people are a functional part of a dynamic biophysical environment, and land use cannot be planned and managed without reference to the human community; accordingly, social, cultural and economic endeavours of the human community must be

central to land use planning and implementation;

- (b) the primary purpose of land use planning in the Nunavut Settlement Area shall be to protect and promote the existing and future well being of the permanent residents and communities of the Nunavut Settlement Area taking into account the interests of all Canadians; special attention shall be devoted to protecting and promoting the existing and future well-being of Inuit and Inuit Settlement Lands;
- (c) the planning process shall ensure land use plans reflect the priorities and values of the residents of the planning regions;
- (d) the public planning process shall provide an opportunity for the active and informed participation and support of Inuit and other residents affected by the land use plans; such participation shall be promoted through means, including ready access to all relevant materials, appropriate and realistic schedules, recruitment and training of local residents to participate in comprehensive land use planning;
- (e) plans shall provide for the conservation, development and utilization of land;
- (f) the planning process shall be systematic and integrated with all other planning processes and operations, including the impact review process contained in the Agreement; and

(g) an effective land use planning process requires the active participation of both Government and Inuit.

11.2.2 The objective of the planning process shall be:

- (a) to develop planning policies, priorities and objectives regarding the conservation, development, management and use of land in the Nunavut Settlement Area;
- (b) consistent with Sub-section (a), to prepare land use plans which guide and direct resource use and development in the Nunavut Settlement Area; and
- (c) the implementation of land use plans.

11.2.3 In developing planning priorities, policies and objectives the following factors shall be taken into account:

- (a) economic opportunities and needs;
- (b) community infrastructural requirements, including housing, health, education and other social services, and transportation and communication services and corridors;
- (c) cultural factors and priorities;
- (d) environmental protection and management needs, including wildlife conservation, protection and management;
- (e) energy requirements, sources and availability; and

(f) other factors.

**PART 3: LAND USE PLANS**

11.3.1 A land use plan shall be a document containing text, schedules, figures and maps for the establishment of objectives and guidelines for short-term and long-term development, taking into account factors such as the following:

- (a) demographic considerations;
- (b) the natural resource base and existing patterns of natural resource use;
- (c) economic opportunities and needs;
- (d) transportation and communication services and corridors;
- (e) energy requirements, sources and availability;
- (f) community infrastructural requirements, including health, housing, education and other social services;
- (g) environmental considerations, including Parks and Conservation Areas, wildlife habitat;
- (h) cultural factors and priorities, including the protection and preservation of archaeological sites and outpost camps;

- (i) special local and regional considerations; and
- (j) other factors.

11.3.2 The purpose of a land use plan shall be to protect and promote the existing and future well-being of the residents and communities of the Nunavut Settlement Area, taking into account the interests of all Canadians, and to protect, and where necessary, to restore the environmental integrity of the Nunavut Settlement Area.

#### **PART 4: NUNAVUT PLANNING POLICY COMMITTEE (NPPC)**

##### Establishment

11.4.1 A Nunavut Planning Policy Committee shall be established with responsibilities to develop planning policies, priorities and objectives regarding the conservation, development, management and use of land in the Nunavut Settlement Area, and generally to fulfil the objectives of the Agreement in the manner described and in accordance with the general principles mentioned in Section 11.2.1, as well as such additional functions as may be agreed upon from time to time by Government and the Designated Inuit Organization (DIO).

11.4.2 The costs of the NPPC shall be the responsibility of Government. The NPPC shall prepare an annual budget, subject to review and approval by Government.

##### Role and Responsibilities

11.4.3 The NPPC shall, in conformity with the Agreement:

- (a) establish broad planning goals, policies and objectives for the Nunavut Planning Commission (NPC);
- (b) identify, in consultation with the chairperson of the NPC, planning regions;
- (c) establish priorities among planning regions;
- (d) identify specific planning goals, objectives and variables that apply to planning regions and are consistent with the broader goals and objectives;
- (e) at the request of the appropriate federal and territorial Ministers or, of its own motion, conduct a review of the draft land use plans prepared by the NPC to ensure consistency with the planning policies, objectives and principles outlined in this Article, and recommend amendments to the NPC and forward their recommendations to the Ministers and the NPC; and
- (f) contribute to the development and review of arctic marine policy.

#### Composition and Appointment

11.4.4 The NPPC shall consist of:

- (a) the Assistant Deputy Minister of Northern Affairs Program, Department of Indian Affairs and Northern Development;

- (b) the Deputy Minister, Department of Renewable Resources, Territorial Government;
- (c) representatives of other departments of the Government of Canada and Territorial Government, as required; and
- (d) the nominees of the DIO, such that the total number of nominees shall be equal to that of other members appointed by Government.

#### **PART 5: NUNAVUT PLANNING COMMISSION (NPC)**

##### **Establishment**

- 11.5.1 A Nunavut Planning Commission shall be established with the major responsibilities to develop, consistent with other provisions of the Article, Land Use Plans that guide and direct resource use and development in the Nunavut Settlement Area.
- 11.5.2 The head office of the NPC shall be in the Nunavut Settlement Area.
- 11.5.3 The costs of the NPC shall be the responsibility of Government. The NPC shall prepare an annual budget, subject to review and approval by Government.

##### **Role and Responsibility**

- 11.5.4 In conformity with the Agreement, the NPC shall:
  - (a) disseminate information and data;

- (b) solicit opinions from municipalities, residents and others about planning goals, options and objectives of the region;
- (c) prepare and circulate draft land use plans consistent with the planning goals, policies and objectives of the NPPC;
- (d) promote public awareness and discussion and conduct public hearing and debate throughout the planning process;
- (e) submit plans to the NPPC;
- (f) recommend plans to the appropriate federal and territorial Ministers;
- (g) consider modifications requested by the appropriate Ministers in the event that a draft plan is rejected;
- (h) consider amendments to a land use plan in accordance with Part 7;
- (i) determine whether a development proposal is in conformity with a land use plan;
- (j) monitor development projects to ensure that they are in conformity with land use plans; and
- (k) report annually to the appropriate Ministers and the DIO on the implementation of land use plans.

Composition and Appointment

11.5.5 The size and makeup of the membership of the NPC may vary, but the Government of Canada and Territorial Government shall each recommend at least one member and the DIO shall nominate a number of members equal to the total number recommended by Government. The NPC members shall be appointed by the Minister of Indian Affairs and Northern Development from the above-noted recommendations and nominations.

11.5.6 Federal and territorial public servants shall not be appointed to the NPC.

11.5.7 At least half of the membership of the NPC shall include permanent residents of the Nunavut Settlement Area.

11.5.8 The DIO shall have the right to substitute from time to time alternates for its nominated members in order to ensure appropriate representation from the region for which planning is being conducted at any one time. Such alternates shall be appointed in a manner consistent with Section 11.5.5.

11.5.9 Subject to Section 11.5.11, members shall be appointed for a term of three years.

11.5.10 From nominations provided by the NPC, the Minister of Indian Affairs and Northern Development, in consultation with the Territorial Government Minister of Renewable Resources, shall appoint a further member to act as an independent chairperson.

11.5.11 The chairperson or other member of NPC may be removed for cause.

11.5.12 A member may be reappointed.

Matters Binding on the Nunavut Planning Commission

11.5.13 The chairperson and other members shall perform their duties in accordance with:

- (a) an oath following the form set out in Schedule 5-4, taken and subscribed before assuming office before an officer authorized by law to administer oaths;
- (b) rules relating to conflict of interest set out in applicable federal and territorial laws, provided that, where a matter before the NPC affects in a general way Inuit, a member shall not merely for that reason be considered to have a conflict because he or she is an Inuk; and
- (c) the terms of the Agreement.

11.5.14 The NPC shall conduct its business in Canada's official languages as required by legislation or policy and, upon request of any member, in Inuktitut.

By-laws and Powers

11.5.15 The NPC may make by-laws and rules respecting:

- (a) the calling of meetings and sittings of the NPC;
- (b) the conduct of business at meetings of the NPC and the establishment of technical panels of the NPC;

- (c) the procedures for making submissions, representations and complaints to the NPC;
- (d) the procedure for collecting information and opinion, including the procedure for conducting formal and informal public hearings;
- (e) generally the manner of conducting the business of or before the NPC; and
- (f) the admissibility of evidence.

11.5.16 In conducting its hearings, the NPC shall:

- (a) at all times, give weighty consideration to the traditions of Inuit oral communication and decision making; and
- (b) allow standing at all hearings to a DIO.

11.5.17 The NPC may, within its approved budget, engage and fix the remuneration of experts or persons having technical or special knowledge to assist the NPC.

#### **PART 6: DEVELOPMENT AND REVIEW OF LAND USE PLANS**

11.6.1 A Nunavut land use plan shall be formulated by the NPC in accordance with Section 11.5.4 to guide and direct short term and long term development in the Nunavut Settlement Area. A land use plan may be based on regional or sub-regional components which may be implemented on completion.

11.6.2 The first stage of the formulation of a land use plan, after such consultation as the NPC finds appropriate, shall be the preparation of a draft land use plan by the NPC.

11.6.3 The NPC shall prepare a draft land use plan in accordance with Section 11.5.4 and, upon completion of a draft land use plan, the NPC shall forward copies to the NPPC for comment. In generating its comments, the NPPC shall solicit a response from all appropriate federal and territorial government agencies and DIOs in relation to the draft land use plan.

11.6.4 Upon receipt of the NPPC's comments, the NPC shall:

- (a) conduct public hearings on the draft plans;
- (b) evaluate the draft plans in light of representations made at the public hearings; and
- (c) as appropriate, revise the draft plans.

11.6.5 Upon completion of public hearings, the NPC shall submit the draft plan as revised along with a written report of the public hearings to the Minister of Indian Affairs and Northern Development and the Territorial Government Minister of Renewable Resources. The NPC shall also submit the plan and the report of the hearings to the NPPC, and the NPC shall make the plan public.

11.6.6 Upon receipt of the revised draft land use plans, the Ministers jointly shall:

- (a) accept the plan; or

(b) refer it back to the NPC for reconsideration accompanied by written reasons; the NPC may make the reasons of the Ministers public.

11.6.7 The NPC shall reconsider the plan in light of written reasons and shall resubmit the plan to the Ministers for final consideration.

11.6.8 Upon accepting a plan, the Minister of Indian Affairs and Northern Development shall seek Cabinet approval and commitment, and the Territorial Government Minister of Renewable Resources shall seek approval and commitment of the Executive Council.

11.6.9 Upon approval by Cabinet and the Executive Council, the plan shall be implemented on the basis of jurisdictional responsibility. All federal and territorial government departments and agencies shall conduct their activities and operations in accordance with the terms of this approval.

11.6.10 The NPC shall review all development proposals and applications in the Nunavut Settlement Area. Upon receipt and review of a development proposal or application, the NPC or members thereof or officers reporting to the NPC shall:

- (a) determine whether the proposals and applications are in conformity with plans; and
- (b) forward the development proposals and applications with its determination and any recommendations to the appropriate agencies.

11.6.11 Where the NPC has determined that a development proposal does not comply with the plan, the proponent may apply to the appropriate Minister for exemption. The Minister may exempt the development proposal from compliance with the plan and shall refer it to the Nunavut Impact Review Board (NIRB), where so required by the Development Impact Provisions. It is agreed that non-conforming development proposals shall not be sent to NIRB until such exemption is obtained.

11.6.12 Where the appropriate Minister exempts a development proposal, the Minister shall supply the NPC with written reasons and such reasons shall be made public.

11.6.13 Sections 11.6.10 to 11.6.12 shall apply where a land use plan has been accepted pursuant to this Part.

11.6.14 The parties agree that the matter of funding intervenors at NPC hearings shall be addressed prior to the Final Agreement.

#### **PART 7: AMENDMENT AND PERIODIC REVIEW OF LAND USE PLANS**

11.7.1 Government, a DIO, or any person affected by a plan, may propose amendments to the plan to the NPC.

11.7.2 The NPC shall consider a proposed amendment and, if it deems it appropriate, review the proposal publicly.

11.7.3 After any public review, the NPC shall recommend to the Ministers that:

- (a) the proposed amendment be rejected in whole or in part; or
- (b) the proposed amendment be accepted, in whole or in part.

11.7.4 If the Ministers reject the recommendations of the NPC, Sections 11.6.6 and 11.6.7 shall apply mutatis mutandis.

11.7.5 No amendment to a plan shall be effective until approved by the Ministers.

#### PART 8: MUNICIPALITIES

11.8.1 Sections 11.8.2 to 11.8.5 shall guide land use planning for municipalities and the involvement of municipalities in regional land use planning.

11.8.2 The principles of land use planning shall be applied in the development of municipal plans. The development of municipal plans shall be the responsibility of the municipalities as provided for in territorial government legislation.

11.8.3 In the development of a regional land use plan, the NPC shall give great weight to the views and wishes of the municipalities in the areas for which planning is being conducted.

11.8.4 Government and TFN recognize the importance of the relationship between municipal and regional planning processes.

11.8.5 The NPC and municipal planning authorities shall cooperate to ensure that regional and municipal land use plans are compatible.

#### **PART 9: OVERLAP PROCESS**

11.9.1 When the NPC conducts planning activities in a part of the Nunavut Settlement Area that is also being used by aboriginal persons who are party to an adjacent aboriginal land claims settlement agreement, and where the organization responsible for that agreement requests representation on the NPC, the Minister responsible for Northern Affairs shall appoint to the NPC a nominee of the responsible organization, and may appoint to the NPC a nominee of Government.

#### **PART 10: SPECIAL PROTECTION FOR INUIT**

11.10.1 Land use plans shall be designed and interpreted in a manner consistent with the Wildlife and Outpost Camp Provisions of the Final Agreement.

11.10.2 The land use planning process shall apply to Inuit Settlement Lands. Land use plans shall take into account Inuit goals and objectives for Inuit Settlement Lands.

*WS*

## ARTICLE 12: DEVELOPMENT IMPACT

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## ARTICLE 12: DEVELOPMENT IMPACT

### PART I: DEFINITIONS

#### 12.1.1 In this Article:

"certificate" means a certificate issued by the Nunavut Impact Review Board (NIRB) pursuant to Sections 12.5.11 and 12.6.17;

"the Minister", unless otherwise specified, means the federal or territorial Minister having the jurisdictional responsibility for authorizing a project to proceed; however, the Government of Canada and Territorial Government may, within their respective jurisdictions, designate a single Minister to be responsible for NIRB and to perform all functions assigned to "the Minister";

"NIRB" means the Nunavut Impact Review Board;

"project proposal" includes a proposal or application.

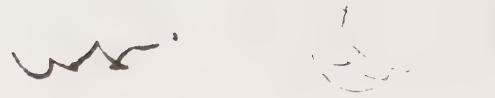
### PART 2: NUNAVUT IMPACT REVIEW BOARD (NIRB)

#### NIRB Established

12.2.1 A Nunavut Impact Review Board shall be established by statute as an instrument of public administration. Responsibility for the operation of NIRB shall vest in the members of NIRB.

#### Functions

12.2.2 The primary functions of NIRB shall be:



- (a) to screen project proposals in order to determine whether or not a review is required;
- (b) to define the regional impacts and sphere of influence of a project, such definition to be taken into account by the Minister in making his or her determination as to the regional interest;
- (c) to review the ecosystemic and socio-economic impacts of project proposals and applications in the Nunavut Settlement Area;
- (d) to determine, on the basis of its review, whether project proposals should proceed, and if so, under what terms and conditions, and then report its determination to the Minister; in addition, NIRB's determination with respect to socio-economic impacts unrelated to ecosystemic impacts shall be treated as recommendations to the Minister; and
- (e) to monitor projects in accordance with the provisions of Part 7.

12.2.3 The mandate of NIRB shall not include the establishment of requirements for socio-economic benefits.

12.2.4 NIRB shall carry out such other functions as are identified or contemplated in the Agreement, and such additional functions as may be agreed to from time to time by Tungavik Federation of Nunavut (TFN) or its successor and the Government of Canada or Territorial Government or as may be set out in legislation.

### Primary Objectives

12.2.5 In carrying out its functions, the primary objectives of NIRB shall be at all times to protect and promote the existing and future well-being of the residents and communities of the Nunavut Settlement Area, and to protect the ecosystemic integrity of the Nunavut Settlement Area. NIRB shall take into account the well-being of residents of Canada outside the Nunavut Settlement Area.

### Membership and Mode of Appointment

12.2.6 NIRB shall be a standing board composed of nine members, one of whom shall be the chairperson. The members shall be appointed as follows:

- (a) four members shall be appointed by the federal Minister responsible for Northern Affairs, upon nomination by the Designated Inuit Organization (DIO);
- (b) a total of two members shall be appointed by one or more Ministers of the Government of Canada;
- (c) a total of two members shall be appointed by one or more Ministers of the Territorial Government; at least one of whom shall be appointed by the Minister of Renewable Resources;
- (d) from nominations provided by NIRB, the chairperson shall be appointed by the federal Minister responsible for Northern Affairs in consultation with the Territorial Government;

(e) in the nomination and appointment of a chairperson, preference shall be given to persons resident in the Nunavut Settlement Area where candidates are equally qualified.

12.2.7 In the initial appointment of NIRB members, two members under Sub-section 12.2.6(a), one member under Sub-section 12.2.6(b) and one member under Sub-section 12.2.6(c) shall be appointed for three years, and the other members under Sub-sections 12.2.6(a), (b) and (c) shall be appointed for four years. Thereafter, all appointments shall be for a term of three years, except that any member appointed to replace any member whose term has not expired shall be appointed for the balance of the term of his or her predecessor.

12.2.8 The chairperson shall be appointed for a three-year term.

12.2.9 Members of NIRB may be removed from office at any time for cause.

12.2.10 Members of NIRB may be reappointed.

12.2.11 Members of NIRB shall perform their duties in accordance with:

- (a) an oath following the form set out in Schedule 5-4, taken and subscribed before assuming office, before an officer authorized by law to administer oaths;
- (b) relevant laws relating to conflict of interest, provided that no board member who is an Inuk shall be considered biased solely because he or she is an Inuk; and

(c) the terms of the Agreement.

12.2.12 Additional members may be appointed from time to time in the same manner and ratio as set out in Sub-sections 12.2.6(a), (b) and (c). Such members may be appointed for a specific purpose, or for a term not exceeding three years.

12.2.13 Legislation may authorize NIRB to constitute itself into panels consisting of two or more NIRB members and to establish quorums, powers and procedures for panels. Such panels shall be composed of an equal number of government and DIO nominees. Legislation may authorize NIRB to review and amend a panel's decision.

Head Office, Meetings

12.2.14 The head office of NIRB shall be in the Nunavut Settlement Area.

12.2.15 NIRB shall, whenever practicable, meet in the Nunavut Settlement Area.

12.2.16 NIRB shall conduct its business in at least one of Canada's official languages, and, upon request of any member, also in Inuktitut, the other official language, or both.

12.2.17 The chairperson shall convene a meeting of NIRB within 21 days of receipt, from any five members, of a written request indicating the purpose of such meetings.

Quorum, Voting

12.2.18 All decisions of NIRB shall be decided by a majority of the votes cast.

12.2.19 Each member other than the chairperson shall have one vote on any matter requiring a decision of NIRB. If there is a tie vote, the chairperson shall vote on the matter.

12.2.20 Five members of NIRB shall comprise a quorum.

12.2.21 Vacancies in NIRB shall not impair the right of the remainder to act.

By-laws and Procedures

12.2.22 NIRB, after due consultation, may make and shall publish its by-laws and rules of procedure respecting:

- (a) the calling of meetings of NIRB;
- (b) the conduct of business at meetings of NIRB including the requirements with respect to physical presence and the use of tele-conferencing or like facilities;
- (c) the establishment of special and standing committees of NIRB, and the fixing of quorums for meetings thereof;
- (d) the carrying on of the work of NIRB, the management of its internal affairs, and the duties of its officers and employees;

- (e) the procedures for making representations and complaints to NIRB;
- (f) the procedures and guidelines for collecting information and opinions;
- (g) the procedures to be used and the admission of evidence at public hearings before NIRB or NIRB panels;
- (h) the establishment of standard guidelines for preparation of impact statements; and
- (i) generally, the manner of conducting any business of or before NIRB.

#### Public Hearings

12.2.23 In designing its by-laws and rules of procedure for the conduct of public hearings, NIRB shall:

- (a) to the extent consistent with the broad application of the principles of natural justice and procedural fairness, emphasize flexibility and informality, and, specifically,
  - (i) allow, where appropriate, the admission of evidence that would not normally be admissible under the strict rules of evidence, and
  - (ii) give due regard and weight to the tradition of Inuit oral communication and decision-making; and

(b) with respect to any classification of intervenors, allow full standing to a DIO.

12.2.24 Legislation shall provide NIRB with the power to subpoena witnesses and documents in carrying out its responsibilities.

12.2.25 NIRB shall conduct its public hearings in Canada's official languages as required by legislation or policy, and, upon request of any member, applicant or intervenor, also in Inuktitut.

12.2.26 All necessary steps shall be taken by way of notice, dissemination of information, and scheduling and location of hearings to provide and promote public awareness of and participation at hearings.

12.2.27 The matter of funding for interventions at NIRB or federal environmental assessment panel hearings will be addressed prior to a Final Agreement.

Employees and Other Officers

12.2.28 The officers and employees necessary for the proper conduct of NIRB, including experts or persons having technical knowledge, may be appointed, and shall be remunerated by NIRB recognizing that secondment of government staff may be appropriate in certain cases.

12.2.29 Such officers and employees shall be responsible to, and under the direction and control of NIRB.

12.2.30 All officers and employees of NIRB shall conform to the same rules respecting conflict of interest as members of

NIRB.

Costs of NIRB

12.2.31 The costs of NIRB shall be the responsibility of Government. NIRB shall prepare an annual budget subject to review and approval by Government.

**PART 3: RELATIONSHIP TO THE LAND USE PLANNING PROVISIONS**

12.3.1 Where the Nunavut Planning Commission (NPC) determines, pursuant to Section 11.6.10 of the Land Use Planning Provisions, that a project proposal is in conformity with the land use plans, and where that project proposal does not fall within Schedule 12-1, the NPC shall forward the project proposal with its determination and recommendations to NIRB for screening.

12.3.2 Project proposals falling within Schedule 12-1 shall be exempt from the requirement for screening by NIRB. The NPC shall not forward such project proposals to NIRB.

12.3.3 Notwithstanding Section 12.3.2, the NPC may refer a project proposal falling within Schedule 12-1 to NIRB for screening, where the NPC has concerns respecting the cumulative impact of that project proposal in relation to other development activities in a planning region.

12.3.4 NIRB shall not screen project proposals that are not in conformity with land use plans, unless an exemption has been received under Section 11.6.11 of the Land Use Planning Provisions.

12.3.5 Sections 12.3.1 to 12.3.4 shall apply where a land use plan has been accepted pursuant to Sections 11.6.8 and 11.6.9 of the Land Use Planning Provisions. In the absence of a land use plan, all project proposals other than those that fall within Schedule 12-1 shall be referred directly to NIRB for screening.

#### PART IV: SCREENING OF PROJECT PROPOSALS

12.4.1 Upon receipt of a project proposal, NIRB shall screen the proposal to determine whether it has significant impact potential, and therefore whether it requires review under Part 12.5 or Part 12.6.

12.4.2 In screening a project proposal, NIRB shall be guided by the following principles:

- (a) NIRB generally shall determine that such a review is required when, in its judgement,
  - (i) the project may have significant adverse effects on the ecosystem, wildlife habitat or Inuit harvesting activities,
  - (ii) the project may have significant adverse socio-economic effects on northerners,
  - (iii) the project will cause significant public concern, or
  - (iv) the project involves technological innovations for which the effects are unknown;

(b) NIRB generally shall determine that such a review is not required when, in its judgement, the project is unlikely to arouse significant public concern and

(i) the adverse ecosystemic and socio-economic effects are not likely to be significant, or

(ii) the project is of a type where the potential adverse effects are highly predictable and mitigable with known technology; and

(c) in determining whether a review is required or not NIRB shall give greater consideration to the provisions of Sub-section (a).

12.4.3 Any application for a component or activity of a project proposal that has been permitted to proceed in accordance with these provisions shall not be screened by NIRB unless:

(a) such component or activity was not part of the original proposal; or

(b) its inclusion would significantly modify the project.

12.4.4 Upon receipt of a project proposal, NIRB shall indicate to the Minister in writing that:

(a) the proposal may be processed without a review under Part 12.5 or 12.6; NIRB may recommend specific terms and conditions to be attached to any approval;

- (b) the proposal requires review under Part 12.5 or 12.6; NIRB shall identify particular issues or concerns which should be considered in such a review;
- (c) the proposal is insufficiently developed to permit proper screening, and should be returned to the proponent for clarification; or
- (d) the potential adverse impacts of the proposal are so unacceptable that it should be modified or abandoned.

12.4.5 NIRB shall carry out its responsibilities under Section 12.4.4:

- (a) where there is a legal requirement for a licensing authority to make a decision within a certain time period, within a time period that would allow the licensing authority to conform with that requirement;
- (b) with the approval of the Minister, within a time period exceeding 45 days; or
- (c) in any other situation, within 45 days.

12.4.6 Where NIRB indicates to the Minister that a proposal may be processed without review, the proposal shall be processed under relevant legislation, unless the Minister decides to refer it for such a review.

12.4.7 Where NIRB indicates to the Minister that a proposal requires review, the Minister shall refuse to grant any

approval that would have the effect of permitting the project to proceed and shall:

- (a) where required, by law or otherwise, refer the proposal to the Minister of the Environment for review by a federal environmental assessment panel; such review shall include both socio-economic and ecosystemic impacts;
- (b) where a proposal is not to be reviewed by a federal environmental assessment panel, refer the proposal to NIRB for a review of the ecosystemic and socio-economic impacts in the Nunavut Settlement Area; or
- (c) where the proposal is not in the national or regional interest, inform the proponent that the proposal should be abandoned or modified and resubmitted to NIRB to be dealt with in accordance with Section 12.4.4.

12.4.8 Where NIRB indicates to the Minister that a proposal should be returned to the proponent for clarification, the Minister shall refuse to grant any approval that would have the effect of permitting the project to proceed and return the proposal to the proponent for clarification and resubmission to NIRB to be dealt with in accordance with Sub-sections 12.4.4(a), (b) or (d).

12.4.9 Where NIRB indicates to the Minister that a proposal should be modified or abandoned, the Minister shall refuse to grant any approval that would have the effect of permitting the project to proceed and, after consultation with NIRB:

- (a) return the proposal to the proponent for modification and resubmission to NIRB to be dealt with in accordance with Section 12.4.4;
- (b) where it appears to be in the national or regional interest that a proposal be reviewed, refer the proposal for review as provided in Sub-sections 12.4.7(a) or (b) accompanied by written reasons for that decision; or
- (c) inform the proponent that the project should be abandoned.

#### **PART 5: REVIEW OF PROJECT PROPOSALS BY NIRB**

- 12.5.1 In sending a proposal for review, the Minister may identify particular issues or concerns which NIRB shall consider in such a review. This shall not limit NIRB from reviewing any matter within its mandate.
- 12.5.2 When a project proposal has been referred to NIRB by the Minister for review, NIRB shall, upon soliciting any advice it considers appropriate, issue guidelines to the proponent for the preparation of an impact statement. It is the responsibility of the proponent to prepare an impact statement in accordance with any guidelines established by NIRB. Where the original project proposal submitted by the proponent for screening contains the information required for an impact statement, NIRB may accept the original project proposal instead of requiring the preparation of an impact statement. Where appropriate, an impact statement shall contain information with respect to the following:

- (a) project description, including the purpose and need for the project;
- (b) anticipated ecosystemic and socio-economic impacts of the project;
- (c) anticipated effects of the environment on the project;
- (d) steps which the proponent proposes to take including any contingency plans, to avoid and mitigate adverse impacts;
- (e) steps which the proponent should take to optimize benefits of the project;
- (f) steps which the proponent proposes to take to compensate interests adversely affected by the project;
- (g) the monitoring program that the proponent proposes to establish with respect to ecosystemic and socio-economic impacts;
- (h) the interests in lands and waters which the proponent has secured, or seeks to secure;
- (i) options for implementing the proposal; and
- (j) any other matters that NIRB considers relevant.

Hearings

12.5.3 NIRB may conduct its review by means of correspondence, public hearings or such other procedures as it deems appropriate to the nature of the project and range of impacts.

Time Frames

12.5.4 The Minister may propose priorities and reasonable time frames for completion of the reviews.

Matters Taken into Account

12.5.5 NIRB shall, when reviewing any project proposal, take into account all matters that are relevant to its mandate, including the following:

- (a) whether the project would enhance and protect the existing and future well-being of the residents and communities of the Nunavut Settlement Area, taking into account the interests of other Canadians;
- (b) whether the project would unduly prejudice the ecosystemic integrity of the Nunavut Settlement Area;
- (c) whether the proposal reflects the priorities and values of the residents of the Nunavut Settlement Area;
- (d) steps which the proponent proposes to take to avoid and mitigate adverse impacts;

- (e) steps the proponent proposes to take, or that should be taken, to compensate interests adversely affected by the project;
- (f) posting of performance bonds;
- (g) the monitoring program that the proponent proposes to establish, or that should be established, for ecosystemic and socio-economic impacts; and
- (h) steps which the proponent proposes to take, or that should be taken, to restore ecosystemic integrity following project abandonment.

NIRB Report

12.5.6 After reviewing the project proposal, NIRB shall issue a report to the Minister and the proponent containing:

- (a) its assessment of the impacts of the project;
- (b) its determination as to whether or not the project should proceed; and
- (c) in the event the project were to proceed, terms and conditions reflecting the primary objectives set out in Section 12.2.5.

12.5.7 Upon receipt of the NIRB report, the Minister shall:

- (a) accept the report of NIRB as to whether or not the project should or should not proceed, including terms and conditions;

- (b) where NIRB has determined that a project should proceed, reject that determination on the basis that the proposal is not in the national or regional interest; the proponent shall be so advised by NIRB;
- (c) where NIRB has determined that a project should proceed, reject the report on the basis that
  - (i) any of the terms and conditions are more onerous than necessary or insufficient to mitigate to an acceptable level the ecosystemic and socio-economic impacts, or
  - (ii) the terms and conditions are so onerous that they would undermine the viability of a project that is in the national or regional interest,

and in such situations NIRB shall reconsider terms and conditions under which the project should be approved in light of the Minister's reasons;

- (d) where NIRB has determined that a project should not proceed, reject that determination on the basis that the project should have been approved because of its importance in the national or regional interest; thereupon, the Minister shall refer the report back to NIRB to consider terms and conditions which should be attached to any project approval; or
- (e) where the report is deficient with respect to ecosystemic and socio-economic issues, refer the report back to NIRB for further review or public hearings; upon such further review or hearings, NIRB

shall submit a further report to the Minister which may be accepted or rejected in accordance with Sub-sections (a), (b), (c) or (d) herein.

12.5.8 Upon considering or reconsidering the terms and conditions of a project approval further to Sub-sections 12.5.7(c) or (d), NIRB shall, within 30 days, or such time as agreed upon with the Minister, make any alterations it considers appropriate and:

- (a) refer its revised report back to the Minister; and
- (b) make its revised report available to the public.

12.5.9 Upon receipt of a revised NIRB report, the Minister may accept, reject, or vary terms and conditions, in whole or in part, on the grounds set out in Paragraphs 12.5.7(c)(i) and (ii).

12.5.10 The Minister shall supply NIRB with particularized written reasons for every decision.

12.5.11 NIRB shall issue a project certificate containing the terms and conditions which have been accepted or varied by the Minister pursuant to this Article.

#### **PART 6: REVIEW BY A FEDERAL ENVIRONMENTAL ASSESSMENT PANEL**

##### Generally

12.6.1 Where the Minister under Sub-section 12.4.7(a) decides to refer a project proposal or application to the Minister of the Environment for public review by a federal environmental assessment panel, the panel shall

conduct its review in accordance with the provisions of this Part and with any other procedures, principles and general practices that provide at least the same opportunity for an open and comprehensive public review as provided by the Environmental Assessment and Review Process Guidelines Order (S.O.R./84-467, 22 June, 1984).

12.6.2 In the event of a conflict between the provisions of this Part and S.O.R./84-467, or between the provisions of this Part and any other procedures, principles and general practices applicable to future federal environmental assessment panels, the provisions of this Part shall always prevail.

#### Membership on Panels

12.6.3 For a project within the Nunavut Settlement Area, the Minister of the Environment shall be free to appoint members to a panel in accordance with his or her general practice, except that at least one quarter of the panel members shall be appointed from a list of nominees given to the Minister of the Environment by the DIO, and at least one quarter from a list of nominees given to the Minister of the Environment by the appropriate Territorial Government Minister. Nothing shall prevent the DIO or the Territorial Government Minister from nominating candidates who are already members of NIRB.

12.6.4 When a project would take place both inside the Nunavut Settlement Area and an adjacent comprehensive land claims area or areas, at least one quarter of the panel members shall be appointed from nominees of the DIO and the other relevant aboriginal group or groups, in accordance with any agreement between the DIO and the other aboriginal

group or groups.

12.6.5 Members of panels shall:

- (a) be unbiased and free of any potential conflict of interest relative to the proposal under review; for greater certainty no panel member who is an Inuk shall be considered biased solely because the panel member is an Inuk;
- (b) be free of any political influence; and
- (c) have special knowledge and experience relevant to the anticipated technical, environmental or social effects of the proposal under review.

Guidelines

12.6.6 Once constituted, a panel may issue to the project proponent a set of guidelines for the preparation of a statement by the proponent on ecosystemic and socio-economic impacts. Any such guidelines will, where appropriate, require the statement to contain information with respect to those headings contained in Section 12.5.2. NIRB shall review the guidelines and provide input into their development.

12.6.7 The panel shall ensure that NIRB has adequate opportunity to review the proponent's impact statement prior to commencement of public hearings, and the panel shall take into account any recommendations or concerns that NIRB has identified.

Hearings

12.6.8 In the conduct of its public hearings under these provisions, a panel shall be bound mutatis mutandis by Sub-sections 12.2.23, 12.2.25 and 12.2.26. Recognizing TFN's position that panels should have subpoena powers and recognizing Government's position that such powers cannot be guaranteed in a land claims settlement, the issue of subpoena powers for panels shall be reviewed by the parties prior to the Final Agreement in light of proposed federal legislation expected to be tabled in Parliament in the near future.

#### Factors Relevant

12.6.9 The panel, when assessing any project proposal, shall take into account all matters that are relevant to its mandate, including as appropriate those matters listed in Section 12.5.2.

#### Report

12.6.10 Upon completion of its review, the panel shall forward its report to the Minister of the Environment and the Minister, who shall make it public and who shall forward a copy to NIRB.

12.6.11 Upon receipt of the report of the panel, NIRB shall have 60 days to review the report and forward its findings and conclusions to the Minister with respect to ecosystemic and socio-economic impacts in the Nunavut Settlement Area. NIRB may identify deficiencies in the panel report, additional terms, conditions and mitigative measures that should be attached to any project approval, additional data requirements, and any other conclusions

deemed pertinent by NIRB including whether or not the project should proceed. In so doing, NIRB shall be guided by the primary objectives set out in Section 12.2.5.

12.6.12 Upon receipt of the panel report and the recommendations of NIRB the Minister shall:

- (a) accept the report with the terms and conditions proposed by the panel insofar as they apply to the Nunavut Settlement Area;
- (b) accept the report insofar as it applies to the Nunavut Settlement Area with modifications proposed by NIRB; or
- (c) reject the panel report or any part thereof insofar as it applies to the Nunavut Settlement Area on the following grounds
  - (i) the project should be rejected on the grounds that the proposal is not in the national or regional interest; in which case the proponent shall be so advised by the Minister,
  - (ii) the project should be allowed to proceed because of its importance in the national or regional interest; in which case NIRB shall consider the terms and conditions with respect to the Nunavut Settlement Area which should be attached to any approval,
  - (iii) any of the terms and conditions are more onerous than necessary or insufficient to

mitigate to an acceptable level of ecosystemic or socio-economic impacts of the project; in which case, NIRB shall thereupon reconsider the terms and conditions with respect to the Nunavut Settlement Area in the light of the Minister's objections.

12.6.13 In considering or reconsidering the terms and conditions of a project approval, NIRB shall, within 30 days or such other period as agreed upon with the Minister, report back to the Minister, with respect to the terms and conditions which should be attached to any project approval.

12.6.14 Upon receipt of NIRB's report further to Section 12.6.13, the Minister may accept, reject or vary terms and conditions, in whole or in part, on the grounds that:

- (a) any of the terms and conditions are more onerous than necessary or insufficient to mitigate to an acceptable level the ecosystemic and socio-economic impacts in the Nunavut Settlement Area; or
- (b) the terms and conditions with respect to the Nunavut Settlement Area are so onerous that they would undermine the viability of a project which is in the national or regional interest.

12.6.15 The Minister shall supply NIRB with written reasons for every decision insofar as it applies to the Nunavut Settlement Area.

12.6.16 The role of NIRB with respect to any federal environmental assessment panel report shall be confined

to those parts of that report that are applicable to or affect the Nunavut Settlement Area.

12.6.17 NIRB shall issue a project certificate containing the terms and conditions with respect to the Nunavut Settlement Area which have been accepted or varied by the Minister pursuant to this Article.

#### PART 7: MONITORING

##### Project Monitoring

12.7.1 The terms and conditions contained in:

- (a) a NIRB certificate issued pursuant to Section 12.5.11 or 12.6.17,
- (b) a recommendation of NIRB pursuant to Sub-section 12.4.4(a), or
- (c) any approvals issued by the Nunavut Water Board,

may provide for the establishment of a monitoring program for that project which may specify responsibilities for the proponent, NIRB or Government.

12.7.2 The purpose of a monitoring program set up pursuant to Section 12.7.1 shall be:

- (a) to measure the relevant effects of projects on the ecosystemic and socio-economic environments of the Nunavut Settlement Area;

- (b) to determine whether and to what extent the land or resource use in question is carried out within the predetermined terms and conditions;
- (c) to provide the information base necessary for agencies to enforce terms and conditions of land or resource use approvals; and
- (d) to assess the accuracy of the predictions contained in the project impact statements.

12.7.3 Without limiting the generality of Section 12.7.2, the monitoring program set up pursuant to that section may include:

- (a) a requirement that regulatory agencies and the proponent supply NIRB with reports and information respecting project operations and impacts, and the implementation of mitigative measures;
- (b) a requirement for a periodic evaluation by NIRB of monitoring programs for projects; and
- (c) based on Sub-section (b), a requirement that NIRB compile a report on the adequacy of the monitoring program and on the ecosystemic and socio-economic impacts of the project.

12.7.4 Responsible government agencies and departments shall continue to fulfill their responsibilities for monitoring and data collection. Any monitoring responsibilities assigned to NIRB shall not be a duplication of those functions.

12.7.5 Any monitoring program established for a project under Section 12.7.1 shall be designed so as to avoid duplication of duties and to facilitate coordination of monitoring activities, and may, in addition to any other relevant matters, provide for the variables to be monitored and the program specifications.

#### General Monitoring

12.7.6 There is a requirement for general monitoring to collect and analyse information on the long term state and health of the ecosystemic and socio-economic environment in the Nunavut Settlement Area. Government, in co-operation with the Nunavut Planning Commission (NPC), shall be responsible for developing a general monitoring plan and for directing and co-ordinating general monitoring and data collection. The NPC shall:

- (a) in accordance with the plan, collate information and data provided by inter alia, industry, government departments and agencies;
- (b) in accordance with the plan, report periodically on the ecosystemic and socio-economic environment of the Nunavut Settlement Area; and
- (c) use the information collected under Sub-sections (a) and (b) to fulfill its existing responsibilities under the Land Use Planning Provisions.

12.7.7 The NPC may delegate any or all of its functions under this Part to members of the NPC or officers or employees of the NPC.

## PART 8: FLEXIBILITY IN RELATION TO CERTIFICATES

12.8.1 NIRB project certificates granted under either Sections 12.5.11 or 12.6.17 may contain terms and conditions expressed to come into force at some time in the future or on the happening of any particular event or contingency.

12.8.2 NIRB may on its own account or upon application by a DIO, the proponent, or other interests, reconsider the terms and conditions contained in the NIRB certificate if it is established that:

- (a) the terms and conditions are not achieving their purpose;
- (b) the circumstances relating to the project or the effect of the terms and conditions are significantly different from those anticipated at the time the certificate was issued; or
- (c) there are technological developments or new information which provides a more efficient method of accomplishing the purpose of the terms and conditions.

12.8.3 Where the Minister determines that any of the conditions in Sub-sections 12.8.2(a), (b) or (c) have been established, NIRB shall reconsider the terms and conditions contained in a certificate, and NIRB shall produce a report of its reconsideration. The Minister may accept, reject or vary that report only on the grounds specified in Section 12.6.14. NIRB shall amend its certificate to reflect any changes as accepted,

rejected or varied by the Minister.

12.8.4 For greater certainty, Section 12.5.4 applies to a reconsideration by NIRB pursuant to Section 12.8.2 or 12.8.3.

#### **PART 9: IMPLEMENTATION**

12.9.1 The terms and conditions of NIRB project certificates shall be implemented by all government departments and agencies in accordance with their authorities and jurisdictional responsibilities.

12.9.2 Without limiting the generality of Section 12.9.1, the terms and conditions of NIRB project certificates may be incorporated in permits, certificates, licences or other government approvals that the proponent may require. Government departments and agencies shall discuss with NIRB how best to implement the terms and conditions of NIRB project certificates and may provide NIRB with draft permits, certificates, licences and other government approvals.

12.9.3 Where an independent decision of a regulatory board contains terms and conditions at variance with the terms and conditions of a NIRB certificate, the regulatory board shall provide reasons to the Government and NIRB justifying the difference. The Governor-in-Council shall consider both the independent decision of the regulatory board and the NIRB certificate. The decision of NIRB shall prevail unless:

(a) with respect to an independent decision of a regulatory board where the government does not have

the authority to vary that decision, it is in the national or regional interest that the project proceed; or

- (b) with respect to any other independent decision of a regulatory board, the project is considered to be in the national or regional interest and the acceptance of the terms and conditions in the NIRB certificate would undermine the viability of the project; or
- (c) an amendment to the NIRB certificate is approved pursuant to Section 12.8.3.

If the NIRB decision does not prevail, the appropriate terms and conditions contained in the NIRB certificate shall be amended accordingly.

12.9.4 In this Part, "independent decision of a regulatory board" means a decision made by a statutory body in the exercise of regulatory or licensing powers in the course of which the body is not subject to specific direction or control by Government; a decision does not cease to be an independent decision of a regulatory board merely because that decision is subject to a general direction whether by guidelines, regulations or directives or to approval variance or recession by Government.

12.9.5 A decision ceases to be an independent decision of a regulatory board for the purposes of this Part where Government has varied such a decision prior to considering the conflict between the decision and the NIRB certificate.

12.9.6 Where there is conflict between any decision made by the NIRB pursuant to this Agreement and a decision of a regulatory board not falling within Section 12.9.3, the decision of NIRB shall prevail.

12.9.7 A licence, permit, certificate or other governmental approval which implements any term or condition of a NIRB project certificate may not be called into question in a court of law on the grounds that the issuing agency thereby fettered its discretion or otherwise acted without jurisdiction, when implementing any term or condition of a NIRB project certificate.

12.9.8 Nothing in Sections 12.9.1 to 12.9.7 shall preclude any regulatory or government agency from reviewing a project and imposing additional or more stringent terms and conditions.

12.9.9 The duty to implement referred to in Section 12.9.1 does not include an obligation on Government to amend legislation.

12.9.10 NIRB and the NPC shall, unless they specify otherwise, receive copies of all approvals, regulatory or otherwise, for projects which NIRB has issued a certificate.

#### PART 10: ENFORCEMENT

##### Projects Not to Proceed

12.10.1 No licence or approval that would have the effect of permitting a proposed project to proceed shall be issued in respect of a project that is to be screened by NIRB pursuant to these provisions until the screening has been

completed and, if a review pursuant to Parts 12.5 or 12.6 is to be conducted, until after that review has been completed and a certificate has been issued by NIRB pursuant to these provisions.

Exceptions

12.10.2 Notwithstanding Sections 12.4.7, 12.4.8, 12.4.9 or 12.10.1, where a project proposal or application has been referred for review pursuant to Parts 12.5 or 12.6, approvals or licences for exploration or development activities related to that project may be issued if:

- (a) the activity falls within Schedule 12-1 to this Article; or
- (b) the activity can, in the judgement of NIRB, proceed without such a review.

Continuing Responsibilities

12.10.3 Where permits, certificates, licences or other government approvals which implement the terms and conditions of a NIRB project certificate have been issued, the responsible government department or agency shall continue to be responsible for the enforcement of the permit, certificate, licence or other government approval.

12.10.4 The responsibility to enforce referred to in Section 12.10.3 may include effective techniques other than prosecution or suspension of any permit, certificate, licence or other government approval.

### Standing

12.10.5 In addition to any person or body that is recognized by laws of general application as having standing to seek a court determination, a DIO shall have standing before an appropriate court:

- (a) to seek a determination as to whether any term or condition contained in a NIRB certificate has been implemented, and any remedy deemed appropriate by the court if the term and condition has not been implemented;
- (b) to obtain a court order compelling a person to do or prohibiting a person from doing whatever that person is, by any licence, approval, permit or contract implementing any terms or conditions of a NIRB certificate, required to do or prohibited from doing; or
- (c) to seek judicial review of decisions and orders, whether interim or final, made pursuant to this Article.

### **PART 11: OVERLAPPING IMPACTS**

#### Other Aboriginal Peoples

12.11.1 When NIRB is conducting a review of a project proposal in a portion of the Nunavut Settlement Area which is also being used by aboriginal persons who are party to an adjacent aboriginal land claims settlement agreement, and where the organization responsible for that agreement requests representation on NIRB, the Minister responsible

for Northern Affairs shall appoint to NIRB a nominee of the responsible organization, and may appoint to NIRB a nominee of Government for any review of the relevant proposal.

#### Transboundary Impacts

12.11.2 The Government of Canada and Territorial Government, assisted by NIRB, shall use their best efforts to negotiate agreements with other jurisdictions to provide for collaboration in the review of projects which may have significant transboundary ecosystemic or socio-economic impacts.

### PART 12: APPLICATION

#### Geographic Application

12.12.1 This Article shall apply to Inuit Settlement Lands.

12.12.2 This Article shall apply to both land and marine areas within the Nunavut Settlement Area and to the landfast ice zone identified in the Marine Boundary - East Baffin Coast Provisions. Shipping associated with project proposals in the Nunavut Settlement Area shall be subject to these provisions. However, normal community resupply or individual ship movements not associated with project proposals shall not be subject to Parts 4, 5 and 6.

12.12.3 This Article applies to the installations, facilities and activities required for the purpose of national defence. However, such installations, facilities and activities will be exempted from these provisions on an exceptional basis upon certification by the Minister of National

Defence that an exemption is required in the interests of national security for reasons of confidentiality or urgency.

Limitations

12.12.4 No term or condition which is in contravention of any standards established by any environmental or socio-economic law in force, may be imposed pursuant to this Article.

12.12.5 Decisions made pursuant to these provisions shall be designed and interpreted in a manner consistent with the Wildlife and Outpost Camps Provisions of a Final Agreement.

No Statutory Defence

12.12.6 The grant of a NIRB project certificate shall not provide the holder with a defence of statutory authorization to an action in tort.

Binding on Crown

12.12.7 For greater certainty, provisions of this part shall bind the Crown, its agents and its servants.

SCHEDULE 12-1

**TYPES OF PROJECT PROPOSALS EXEMPT FROM THE  
SCREENING PROVISIONS OF THIS AGREEMENT**

1. Land use activities not normally requiring a permit or authorization from the Government of Canada or Territorial Government.
2. Land use activities requiring only a Class B permit under the Territorial Land Use Regulations (SOR/77-210 4 March 1977).
3. All construction, operation and maintenance of all buildings and services within an established municipality, except for bulk storage of fuel, power generation with nuclear fuels, or hydro power and any industrial activity.
4. All hotels, motels or tourist facilities of 20 beds or less outside the boundaries of a municipality.
5. Water uses that do not require a public review under the Northern Inland Waters Act and its regulations.
6. Prospecting, staking or locating a mineral claim unless it requires more than a Class B permit mentioned in Paragraph 2 above.
7. Such other categories of activities and projects as may be agreed upon by NIRB and the appropriate Minister.

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## ARTICLE 13: WATER MANAGEMENT

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## ARTICLE 13: WATER MANAGEMENT

### PART 1: DEFINITIONS

#### 13.1.1 In this Article:

"drainage basin" means a geographical area determined by the watershed limits of the systems of water, including surface and underground water, flowing into a common terminus;

"water" means waters in any river, stream, lake or other body of inland waters on the surface or under ground in the Nunavut Settlement Area, and includes:

- (a) all inland ground waters; and
- (b) ice.

### PART 2: NUNAVUT WATER BOARD (NWB) ESTABLISHED

13.2.1 A Nunavut Water Board (NWB) shall be established by statute as an instrument of public administration. It shall have responsibilities and powers over the regulation, use and management of water in the Nunavut Settlement Area, on a basis at least equivalent to the powers and responsibilities currently held by the Northwest Territories Water Board under the Northern Inland Waters Act RSC 1970 (1st Supp.), C.28, and any other responsibilities acquired under this Article.

### PART 3: ORGANIZATION AND OPERATION OF THE NWB

#### Membership, Appointment, and Panels



13.3.1 The NWB shall be composed of nine members. The members shall be appointed as follows:

- (a) four members shall be appointed by the Minister responsible for Northern Affairs upon nomination by a Designated Inuit Organization (DIO);
- (b) two members shall be appointed by the Minister responsible for Northern Affairs;
- (c) two members shall be appointed by the Minister responsible for Northern Affairs upon nomination by designated Ministers of the Territorial Government, one of whom shall be the Minister responsible for Renewable Resources; and
- (d) a chairperson shall be appointed by the Minister responsible for Northern Affairs following consultation with the other members.

13.3.2 Subject to Sections 13.3.3 and 13.3.4, each member shall be appointed for a three year term. Members shall be eligible for reappointment.

13.3.3 Additional members may be appointed from time to time in the same manner and ratio as set out in Section 13.3.1. Any such member may be appointed for a specific purpose or for a term of less than three years.

13.3.4 Any member may be removed for cause.

Panels

13.3.5 Legislation may authorize the NWB to constitute itself into panels consisting of two or more NWB members. Such panels shall be composed of an equal number of government and DIO nominees. Legislation may authorize the NWB to delegate to a panel all or any powers of the NWB including the right to hold hearings and grant approvals.

Matters Binding on Members

13.3.6 Members of the NWB shall perform their duties in accordance with:

- (a) an oath following the form set out in Schedule 5-4 and subscribed prior to assuming office before an officer authorized by law to administer oaths; and
- (b) laws relating to conflict of interest, provided no member shall be considered to be biased in any application before the NWMB solely because he or she is an Inuk.

Administration

13.3.7 Members of the NWB shall perform duties on a part-time or full-time basis, as workload dictates, and shall receive fair remuneration as determined by Government for the performance of such duties. Each member shall be entitled to be paid such reasonable travelling and living expenses as are consistent with Treasury Board guidelines for travelling and living expenses of public servants.

13.3.8 The NWB shall maintain a permanent office in the Nunavut Settlement Area. The parties agree to address the location of a head office prior to the Final Agreement.

13.3.9 The NWB shall ordinarily meet in the Nunavut Settlement Area.

13.3.10 The NWB shall conduct its business in Canada's official languages as required by legislation or policy, and upon request of any member, also in Inuktitut.

Public Hearings

13.3.11 The NWB shall conduct its hearings in Canada's official languages as required by legislation or policy and, upon request of any member, applicant or intervenor, also in Inuktitut.

13.3.12 In designing its by-laws and rules of procedure for the conduct of public hearings, the NWB shall:

- allow and give appropriate weight to evidence to be admitted at public hearings that would not normally be admissible under the strict rules of evidence; and
- give due regard and weight to Inuit culture, customs and knowledge.

13.3.13 Prior to the holding of public hearings on any water application, the NWB shall take all steps necessary by way of notice, dissemination of information and scheduling and location of hearings to provide and promote public awareness in such public hearings.

13.3.14 Within a reasonable period of time prior to the commencement of any public hearing, the information provided to the NWB in relation to any water application shall be made available to the public.

13.3.15 In the conduct of public reviews, the NWB shall hold hearings in the communities most affected by the water application.

13.3.16 The parties agree that the matter of funding intervenors at NWB hearings will be addressed prior to the Final Agreement.

Costs of NWB

13.3.17 The costs of the NWB shall be the responsibility of Government. The NWB shall prepare an annual budget, subject to review and approval by Government.

**PART 4: RELATIONSHIP TO LAND USE PLANNING**

Development of Land Use Plans

13.4.1 The NWB shall contribute fully to the development of land use plans as they concern water in the Nunavut Settlement Area.

Lack of Conformity with Land Use Plans

13.4.2 Where pursuant to Section 11.6.10 of the Land Use Planning Provisions, the Nunavut Planning Commission (NPC) informs the appropriate agencies that a water application does not conform to land use plans, the

application shall be rejected. If, pursuant to Section 11.6.11 of the Land Use Planning Provisions, the applicant subsequently requests and receives an exemption from planning conformity requirements, the application shall be processed by the NWB or Nunavut Impact Review Board (NIRB) as required.

#### Conformity with Land Use Plans

13.4.3 Where the NPC determines, pursuant to Section 11.6.10 of the Land Use Planning Provisions, that a water application is in conformity with land use plans, and where the application falls within a category that has been exempted from the requirement of screening by NIRB under the Development Impact Provisions, NPC shall forward the application with its determinations and recommendations to the NWB for disposition, unless the NPC exercises its authority under Section 13.4.4.

13.4.4 Where the NPC has concerns respecting the cumulative impact of development activities in a planning region, it may refer water applications to NIRB for screening even though the application may normally be exempt from screening.

13.4.5 Where the Nunavut Planning Commission determines, pursuant to Section 11.6.10 of the Land Use Planning Provisions, that a water application is in conformity with the land use plans, and where the application falls within a category that has not been exempted from the requirements of screening by NIRB under the Development Impact Provisions, NPC shall forward the application with its determination and recommendations to NIRB for screening.

#### Absence of Land Use Plans

13.4.6 Sections 13.4.3, 13.4.4 and 13.4.5 shall apply where a land use plan has been accepted pursuant to Part 11.6 of the Land Use Planning Provisions. In the absence of a land use plan, water applications requiring screening by NIRB shall be forwarded directly to NIRB.

#### **PART 5: RELATIONSHIP TO DEVELOPMENT IMPACT REVIEW**

13.5.1 Following receipt of a water application for screening, NIRB shall determine whether it requires assessment under the Development Impact Provisions and shall so advise the NWB.

13.5.2 Where the water application is referred for assessment under the Development Impact Provisions, the NWB and the assessment body shall coordinate their efforts to avoid unnecessary duplication in the assessment and processing of the application. Legislation may provide for joint hearings or authorize the NWB to forego public hearings on any water application where it has participated in a public review of the relevant water use under the Development Impact Provisions.

13.5.3 Where the water application is not referred for assessment under the Development Impact Provisions, the NWB may process the application.

13.5.4 Where an assessment is required pursuant to the Development Impact Provisions, the NWB shall not approve any water application that forms part of that assessment until the Development Impact Provisions have been

complied with.

13.5.5 The NWB shall not be precluded from issuing interim or short-term approvals for water uses related to exploration or developmental work for a proposal under development impact review.

#### PART 6: CO-ORDINATION OF RESOURCE MANAGEMENT ACTIVITIES

13.6.1 The NPC, NIRB and the NWB shall co-operate and co-ordinate their efforts in the review, screening and processing of water applications to ensure they are dealt with in a timely fashion.

#### PART 7: WATER APPLICATION APPROVAL

13.7.1 Approval of applications which do not require a mandatory public hearing shall normally be dealt with summarily by the NWB, but the NWB may hold public hearings on any such application when it considers them to be warranted.

13.7.2 If the NWB holds a public hearing for an application which does not require a mandatory public hearing, the NWB shall, to the extent that it is appropriate, follow the same procedures as for a water use application that does require a mandatory public hearing.

13.7.3 From time to time the Governor-in-Council, after consultation with or on the advice of the NWB, may by regulation prescribe certain classes or types of water use applications which do not require approval by means of mandatory public hearings.

13.7.4 The NWB shall have the right to delegate its authority to approve applications which do not require mandatory public hearings to the chief administrative officer of the NWB.

13.7.5 No person may use water or dispose of waste into water without a mandatory public hearing unless the use is of a category of use which has been exempted from the requirement for mandatory public hearings by regulation issued by the Governor-in-Council in accordance with Section 13.7.3. Such categories shall be known as applications which do not require mandatory public hearings.

#### **PART 8: PROVISION OF INFORMATION**

13.8.1 Consistent with Section 11(2) of the Northern Inland Waters Act, RSC 1970 (1st Supp.), C.28, the NWB, when considering a water application, may issue guidelines to the applicant for provision of information with respect to the following:

- (a) project description;
- (b) any qualitative and quantitative effects of the proposed water use on the water management area, including anticipated impacts on other water users of that area;
- (c) steps which the proponent proposes to take to avoid and mitigate adverse impacts;
- (d) steps which the proponent proposes to take to compensate interests adversely affected by water

use;

- (e) the program the proponent proposes to establish for monitoring impacts of the water use;
- (f) interests in the lands and waters which the proponent has secured or seeks to secure;
- (g) options for implementing the project; and
- (h) any other matters that the NWB considers relevant.

#### **PART 9: ENFORCEMENT**

13.9.1 Where approval of the NWB is required for a water application, the applicant shall not proceed until approval has been granted.

#### **PART 10: OVERLAP**

##### Other Aboriginal Peoples

13.10.1 When the NWB is conducting a review of an application for water use in a portion of the Nunavut Settlement Area which is also being used by aboriginal persons who are party to an adjacent aboriginal land claims settlement agreement, and where the organization responsible for that agreement requests representation on the NWB, the Minister responsible for Northern Affairs shall appoint to the NWB a nominee of the responsible organization and may appoint to the NWB a nominee of Government for any review of the relevant application.

##### Interjurisdictional Water Management

13.10.2 Where a drainage basin is shared between the Nunavut Settlement Area and another jurisdiction, the Government of Canada and the Territorial Government, assisted by the NWB, shall use their best efforts to negotiate agreements with other jurisdictions concerned with the use and management of such drainage basins.

13.10.3 In the event that it is determined that the approval of a water application in the Nunavut Settlement Area would have significant bearing upon water use outside the Nunavut Settlement Area, the NWB may collaborate with its appropriate counterpart in the review, if appropriate, of that water application.



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## ARTICLE 14: MUNICIPAL LANDS

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## ARTICLE 14: MUNICIPAL LANDS

### PART 1: MUNICIPAL STATUS

14.1.1 Before the date of the ratification of the Final Agreement, all communities identified, by way of schedule to the Final Agreement, shall be afforded, under the applicable territorial government legislation, corporate municipal status and the power to control and administer their legal and equitable interests and estates in land.

### PART 2: APPLICATION OF BY-LAWS

14.2.1 From the date of the ratification of the Final Agreement, all lands located within the municipal boundary of a municipality, with the exception of lands identified as Crown lands pursuant to Sub-section 14.3.1(b), shall be subject to application of municipal by-laws.

### PART 3: DEFINITION OF MUNICIPAL LANDS

14.3.1 From the date of the ratification of the Final Agreement, all lands within a municipal boundary shall be municipal lands with the following exceptions:

- (a) Inuit Settlement Lands falling within municipal boundaries as identified in the Final Agreement;
- (b) Crown lands falling within municipal boundaries and consisting of
  - (i) lands required at present, or in the reasonably foreseeable future, for government facilities or operations, including lands

required for the Northwest Territories Power Corporation,

(ii) the beds of water bodies and the water rights connected therewith, and

(iii) a 100' strip along certain shorelines, all to be identified in the Final Agreement;

(c) lands encumbered with third party interests in the form of an estate in fee; and

(d) the subsurface estate to lands.

14.3.2 Where, at any time subsequent to the date of the ratification of the Final Agreement, a municipality acquires any of the lands or interests described in Section 14.3.1, such lands or interests shall be considered to be municipal lands for all further purposes.

#### PART 4: RIGHT TO ACQUIRE FROM CROWN

14.4.1 Where, in the period following the date of the ratification of the Final Agreement, the Crown determines that land is no longer needed for government purposes within a municipal boundary, and such land has been declared to be surplus, the Crown shall convey an estate in fee simple to the municipality in exchange for nominal consideration.

#### PART 5: PROCEDURE FOR DETERMINING MUNICIPAL BOUNDARIES

14.5.1 As soon as practicable, the municipalities, the Tungavik Federation of Nunavut (TFN) and Government shall undertake a process to define appropriate long-term boundaries. Such a process shall be synchronized with, but not prejudicial to, the Inuit Settlement Lands identification process, with the objective that municipal boundaries for all municipalities shall be described by way of schedule to the Final Agreement.

14.5.2 Government and TFN acknowledge that:

- (a) the current Block Land Transfer Program (BLTP) is intended to serve an objective consistent with this Article;
- (b) Government intends to continue the BLTP and to continue to indicate to the communities that the BLTP is subject to the terms of the Final Agreement; and
- (c) the Territorial Government invites TFN to play an active role in the BLTP but recognizes that such role shall in no way limit the application of this Article.

14.5.3 It is agreed that the municipal boundary of each community referred to in Section 14.1.1 should be drawn in such a way as to provide the municipality with sufficient lands, based on current and future needs:

- (a) to encompass the projected expansion requirements of the community;
- (b) to encompass the community water supply;

- (c) to encompass the solid waste disposal areas;
- (d) to encompass resource areas sufficient to provide a supply of granular, quarrying and earth construction materials for the community;
- (e) to encompass existing or proposed community transportation and communication networks;
- (f) to encompass community airstrips and docking areas;
- (g) to encompass a necessary buffer area around the perimeter of the projected urban community to control development and discourage unorganized development;
- (h) to encompass areas contiguous to the community that are actively utilized by the community on a continuous or seasonal basis for recreational or other purposes and which have property development implications; and
- (i) to encompass areas unique to an individual community that may arise on a case-by-case basis and which may be required by a community in the conduct of its municipal responsibilities.

14.5.4 Nothing in this Article shall be construed so as to prevent the further extension of a municipal boundary or the creation of a new municipality in the period subsequent to the date of the ratification of the Final Agreement. Such further extension or creation of a new municipality shall:

- (a) have no effect, in itself, on the title to lands;
- (b) not include Inuit Settlement Lands without the written permission, conditional or otherwise, of a Designated Inuit Organization (DIO).

14.5.5 As of the date of the ratification of the Final Agreement, all municipal lands belonging to the Crown shall be administered and controlled by the Commissioner for the use and benefit of the municipality in accordance with this Article. This Article shall not be construed so as to provide the Commissioner with any additional powers of administration and control over lands, the title to which vests in a municipality prior to date of the ratification of the Final Agreement.

14.5.6 As soon as practicable and, in any event no later than three years after the date of the ratification of the Final Agreement, the Commissioner shall convey the fee simple estate to the municipal lands of the built-up area of the municipality to the municipality. The built-up area shall include, but shall not be restricted to, water reservoirs and facilities, community dump sites, sewage lagoons and treatment plants, borrow pits for granular, quarrying and earth construction materials, and graveyards.

14.5.7 Upon request by the municipality, the fee simple title to any or all legally surveyed portions of municipal lands, other than those lands conveyed further to Section 14.5.6, shall be conveyed forthwith to the municipality.

14.5.8 It is agreed that the Commissioner shall not create or dispose of any interests or estates in municipal lands without prior written permission of the municipality, conditional or otherwise.

14.5.9 It is further agreed that, following the date of the ratification of the Final Agreement, the Commissioner shall not transfer administration and control of municipal lands to any Minister, agent or servant of the Crown:

- (a) without municipal approval, conditional or otherwise; or
- (b) without expropriation and the payment of compensation.

#### **PART 6: LIMITS OF ALIENATION OF MUNICIPAL LANDS**

14.6.1 As soon as practicable after the date of the ratification of the Final Agreement, and within timeframes established in the Final Agreement, the Territorial Government shall conduct a referendum within each municipality to determine whether a majority of the municipal voters are in favour of restricting alienation of lands belonging to the municipality.

14.6.2 Where the results of a referendum are in favour of restricting alienation of municipal lands, the municipality shall not create any legal or equitable interest in municipal lands that results in any rights enduring for or arising more than 99 years in the future.

14.6.3 At any time after 20 years, the municipality may elect by referendum to remove the restriction on alienation.

14.6.4 Where a municipal plan is not in effect with respect to all or part of the municipal lands of a municipality, the municipality shall not create any legal or equitable interest or estate in the land or otherwise allow development to proceed on the lands, without the prior written permission of the Commissioner.

#### **PART 7: ADMINISTRATION OF MUNICIPAL LANDS**

14.7.1 A municipality may at any time exchange undertakings or enter into agreements with the Commissioner whereby its administrative responsibilities as owner over all or part of its municipal lands may be temporarily discharged by the Commissioner.

#### **PART 8: SPECIAL CONCERNS**

14.8.1 The establishment of new communities for industrial purposes shall be subject to the Land Use Planning and Development Impact Provisions of the Final Agreement.

14.8.2 The establishment of new municipalities shall occur in a manner consistent with the Municipal Lands Provisions of the Final Agreement.

14.8.3 In the event a municipality is abandoned and the lands are not required for government purposes the DIO shall have a right of first refusal:

(a) to purchase the lands; or

(b) at the election of the DIO, to exchange the lands for Inuit Settlement Lands of comparable value; when Government and the DIO cannot agree on the lands to be exchanged the matter shall be resolved pursuant to the Arbitration Provisions of the Final Agreement.

14.8.4 Inuit shall have access to municipal lands in accordance with the provisions of the Final Agreement. Access to municipal lands by third parties for industrial and commercial purposes shall be subject to the Land Use Planning and Development Impact Provisions of the Final Agreement.

14.8.5 Expropriation of municipal lands shall occur in accordance with laws of general application.

#### **PART 9: INTERPRETATION**

14.9.1 As used in this Article, a surface estate in lands includes granular, quarrying and earth construction materials.

#### **PART 10: TRANSITIONAL PROVISIONS**

14.10.1 It is agreed that numerous problems exist with respect to legal descriptions and past surveys of built-up areas of municipalities. It is further agreed that the necessary remedial survey work shall be carried out expeditiously by the Territorial Government.

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#### ARTICLE 15: MARINE AREAS

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## ARTICLE 15: MARINE AREAS

### PART 1: DEFINITIONS

#### 15.1.1 In this Article:

"marine areas" means that part of Canada lying to the seaward side of the seacoast within the Nunavut Settlement Area;

"Zone I" means those waters north of 61° latitude subject to Canada's jurisdiction seaward of the Territorial Sea boundary as measured from lines drawn pursuant to the Territorial Sea Geographical Co-ordinates (Area 7) Order SOR/85-872 that are not part of the Nunavut Settlement Area or another land claim settlement area;

"Zone II" means those waters of James Bay, Hudson Bay and Hudson Strait that are not part of the Nunavut Settlement Area or another land claim settlement area.

### PART 2: PRINCIPLES

#### 15.2.1 This Article recognizes and reflects the following principles:

- (a) Inuit are traditional and current users of certain marine areas, especially the land-fast ice zones;
- (b) the legal rights of Inuit in marine areas flowing from this Agreement are based on traditional and current use;

- (c) Canada's sovereignty over the waters of the arctic archipelago is supported by Inuit use and occupancy;
- (d) Inuit harvest wildlife that might migrate beyond the marine areas;
- (e) an Inuit economy based in part on marine resources is both viable and desirable;
- (f) there is a need to develop and co-ordinate policies regarding the marine areas; and
- (g) there is a need for Inuit involvement in aspects of an Arctic marine management, including research.

### PART 3: APPLICATION

- 15.3.1 If a Park or Conservation Area is established and that Park or Conservation Area partially extends beyond the marine areas, the Parks Provisions or Conservation Areas Provisions, as the case requires, shall apply to that entire Park or Conservation Area.
- 15.3.2 The following Articles shall apply to marine areas subject to any qualifications contained in those Articles:
  - (a) Wildlife;
  - (b) Wildlife Compensation;
  - (c) Parks;
  - (d) Conservation Areas;

- (e) Land Use Planning;
- (f) Development Impact;
- (g) Public Sector Employment;
- (h) Government Contracting;
- (i) Resource Royalty Sharing;
- (j) Archaeology; and
- (k) Ethnography, Archives.

15.3.3 Except for islands, there shall be no Inuit Settlement Lands in marine areas.

**PART 4: WILDLIFE MANAGEMENT AND HARVESTING BEYOND THE MARINE AREAS OF THE NUNAVUT SETTLEMENT AREA**

- 15.4.1 Government will maintain a structure or structures to promote coordinated management of migratory marine species in Zones I and II and adjacent areas.
- 15.4.2 The Nunavut Wildlife Management Board (NWMB) shall appoint appropriate representatives from the Nunavut Settlement Area to the structure or structures referred to in Section 15.4.1.
- 15.4.3 A structure or structures referred to in Section 15.4.1 shall not diminish the decision-making role of the NWMB within the marine areas of the Nunavut Settlement Area.

15.4.4 Government shall seek the advice of the NWMB with respect to any wildlife management decisions in Zones I and II which would affect the substance and value of Inuit harvesting rights and opportunities within the marine area of the Nunavut Settlement Area. The NWMB shall provide relevant information to Government that would assist in wildlife management beyond the marine area of the Nunavut Settlement Area.

15.4.5 Part 44 of the Wildlife Provisions shall apply to any international or domestic interjurisdictional agreement relating to wildlife management applicable to Zones I and II.

15.4.6 The NWMB may identify wildlife research requirements and deficiencies, review research proposals and applications, and where appropriate recommend acceptance or rejection of such proposals or applications within Zones I and II and, in making any decision which affects Zones I and II, Government shall consider such recommendations.

15.4.7 Government recognizes the importance of the principles of adjacency and economic dependence of Nunavut communities on marine resources, and shall give special consideration to these factors when allocating commercial fishing licences within Zones I and II. Adjacency means adjacent to or within a reasonable geographic distance of the zone in question. The principles will be applied in such a way as to promote a fair distribution of licences between the residents of the Nunavut Settlement Area and the other residents of Canada and in a manner consistent with Canada's interjurisdictional obligations.

15.4.8 Inuit rights with respect to wildlife harvesting and management may extend beyond the marine areas of the claim in accordance with overlap agreements with other aboriginal groups.

15.4.9 For greater certainty, nothing in these provisions shall preclude Inuit access to wildlife for harvesting purposes in Zones I and II.

## PART 5: MARINE MANAGEMENT

15.5.1 The Nunavut Impact Review Board, the Nunavut Water Board, the Nunavut Planning Policy Committee, and the Nunavut Wildlife Management Board may jointly, as a Nunavut Marine Council, or severally advise and make recommendations to other government agencies regarding the marine areas, and Government shall consider such advice and recommendations in making decisions which affect marine areas.

## PART 6: SAVING

15.6.1 This Article shall be interpreted in a manner consistent with Canada's sovereignty, sovereign rights and jurisdiction, and with Canada's international obligations.

15.6.2 In the event of a conflict between this Article and any overlap agreement concluded before the Final Agreement, the parties agree to review the conflicting provisions.



## ARTICLE 16: MARINE BOUNDARY - EAST BAFFIN COAST

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## ARTICLE 16: MARINE BOUNDARY - EAST BAFFIN COAST

### PART 1: GENERAL

16.1.1 The boundary of the Nunavut Settlement Area along the East Baffin coast shall be formed by the seaward edge of the Territorial Sea as measured from baselines.

16.1.2 In the area between Cape Dyer on Baffin Island and Cape Liverpool on Bylot Island, seaward of the Territorial Sea boundary to the edge of the land-fast ice zone, including the adjacent waters normally used in floe edge harvesting, the following provisions shall apply, in a manner consistent with Canada's sovereignty, sovereign rights and jurisdiction, and with Canada's international obligations:

(a) the Wildlife Provisions, with respect to;

(i) all harvesting from land-fast ice, and

(ii) all marine mammals in open waters within the land-fast ice zone as defined in Section 16.1.5;

(b) the Land Use Planning Provisions; and

(c) the Development Impact Provisions.

16.1.3 In addition to the rights under Section 16.1.2, Inuit shall have the right to continue to use open waters referred to in Paragraph 16.1.2(a)(ii) for the purpose of harvesting, for domestic consumption, all species other than marine mammals. Inuit shall not need licences

for such activities but shall be subject to all other management regulations imposed by appropriate government authorities consistent with Part 4 of the Marine Provisions.

16.1.4 Fisheries in the land-fast ice zone shall be managed so as not to deplete marine mammal populations.

16.1.5 The land fast ice zone shall be that area bounded:

- (a) in the north, by latitude 73° 40' N, off Cape Liverpool on Bylot Island;
- (b) in the south, by latitude 66° 37' N, off Cape Dyer on Baffin Island;
- (c) in the west, by the Territorial Sea boundary; and
- (d) in the east, by the maximum extent of the land fast ice, based on data collected from 1963 to 1986 and to be mapped by the Ice Climatology Division, Environment Canada, and to be recorded in the Canada Lands Survey Records, a copy of which will be appended by way of schedule to the Final Agreement.

INUIT SETTLEMENT LANDS



## ARTICLE 17: PURPOSES OF INUIT SETTLEMENT LANDS



## ARTICLE 17: PURPOSES OF INUIT SETTLEMENT LANDS

### PART 1: GENERAL

17.1.1 The primary purpose of Inuit Settlement Lands shall be to provide Inuit with rights in land that promote economic self-sufficiency of Inuit through time, in a manner consistent with Inuit social and cultural needs and aspirations.

17.1.2 Inuit Settlement Lands are expected to include areas with the following characteristics, not in order of priority:

- (a) areas of value principally for renewable resource reasons, including
  - (i) principal or other wildlife harvesting areas,
  - (ii) areas of significant biological productivity or of value for conservation purposes,
  - (iii) areas of high potential for propagation, cultivation or husbandry,
  - (iv) areas of current or potential occupation by outpost camps,
  - (v) areas of value for sport camps or other tourist opportunities; and
- (b) areas of value principally for reasons related to the development of non-renewable resources, including

- (i) areas of known or potential mineral deposits,
- (ii) areas of value for various operations and facilities associated with the development of non-renewable resources;
- (c) areas of commercial value; and
- (d) areas of archaeological, historical or cultural importance.

17.1.3 Inuit Settlement Lands shall, to the extent possible, provide for a mix of the characteristics outlined above in order to secure balanced economic development. However, the relative weighting of the characteristics with respect to any particular community or region shall turn on the actual and potential economic opportunities at hand and the particular community or regional preferences.

## ARTICLE 18: PRINCIPLES TO GUIDE THE IDENTIFICATION OF INUIT SETTLEMENT LANDS

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## ARTICLE 18: PRINCIPLES TO GUIDE THE IDENTIFICATION OF INUIT SETTLEMENT LANDS

### PART 1: GENERAL

18.1.1 The primary principle to guide the identification process of Inuit Settlement Lands shall be to provide Inuit with maximum opportunity to identify such areas in pursuit of the purposes of Inuit Settlement Lands. Subject to this primary principle, the identification process for Inuit Settlement Lands shall reflect the following:

- (a) identification may take place in areas subject to third party interests; any rights or interests of third parties shall be dealt with equitably; the identification may be made on a case-by-case basis;
- (b) in general, identification shall not include areas subject to third party interests in the form of fee simple estates in private hands;
- (c) consistent with provisions dealing with community ownership of land, areas may be identified in or near communities, provided that identification of such areas shall not prevent a community from carrying out its regular community functions or prevent its growth;
- (d) areas may be identified in all lands currently required, or foreseeably required, for wildlife sanctuaries, Conservation Areas, Parks, archaeological sites or similar categories of lands dedicated for the protection of wildlife or wildlife habitat or for recreational or cultural purposes,

provided that

- (i) such areas shall be subject to provisions dealing with wildlife, land management, and laws of general application, and
- (ii) certain areas within potential parks, and within areas of particular archaeological, historical or cultural significance, may not be identified; it is expected that the boundaries of Parks will emerge through the identification process;
- (f) identification in areas of overlapping use and occupation with other aboriginal peoples may not be finalized until issues relating to such overlap are resolved;
- (g) on a case-by-case basis, identification may not extend to certain areas required at present, or in the reasonably foreseeable future, for federal or territorial government facilities or operations;
- (h) on a case-by-case basis, identification may not extend to lands needed for public purposes or utilities, the need for which becomes apparent during the identification process;
- (i) on a case-by-case basis, identification may not extend to within a 100 feet of certain shorelines; and
- (j) in general, areas shall be identified so as to avoid undue fragmentation.

18.1.2 During the land identification process, Inuit shall have the right to identify lands containing known deposits of carving stone as Inuit Settlement Lands.



## ARTICLE 19: IDENTIFICATION OF INUIT SETTLEMENT LANDS



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## ARTICLE 19: IDENTIFICATION OF INUIT SETTLEMENT LANDS

### PART 1: GENERAL

19.1.1 In determining which land Inuit will own, the parties shall be guided by the Purposes of Inuit Settlement Lands Provisions and Principles to Guide the Identification of Inuit Settlement Lands Provisions.

19.1.2 High Arctic lands within the Sverdrup Basin, as described in Schedule 19-1, shall be excluded from identification as Inuit Settlement Lands.

### PART 2: LAND IDENTIFICATION PROCESS

19.2.1 The process to determine which land Inuit will own is composed of four stages:

- (a) negotiation of a sub-agreement on the process to determine how much land and which land Inuit will own;
- (b) a community preparation program for the Tungavik Federation of Nunavut (TFN) and the communities to make a preliminary identification of their areas of interest and to determine their positions on how much land Inuit will own;
- (c) land quantum negotiations in one community in each of the land use regions identified in Schedule 19-2 to commence upon conclusion of the community preparation program; and

(d) land ownership negotiations in each of the land use regions identified in Schedule 19-2, and, where necessary, in particular communities within regions.

19.2.2 Government agrees to provide loan funding for:

- (a) a TFN-community preparation program and land quantum negotiations for which funding arrangements shall be agreed upon by March 31, 1988; and
- (b) land ownership negotiations for which funding requirements will be identified for approval in the Agreement.

19.2.3 The community preparation program will begin following the initialling of this Article and shall be completed no later than November 1, 1988.

#### **PART 3: COMMUNITY PREPARATION PROGRAM**

19.3.1 In advance of the community preparation program, Government shall provide TFN with a set of 1:500,000 scale maps and supporting lists showing the following information for areas outside municipal boundaries:

- (a) the materials referred to in Sections 8.2.2, 8.2.3, and 8.3.2 of the Parks Provisions;
- (b) the areas referred to in Section 9.2.1 of the Conservation Area Provisions;
- (c) existing and proposed community and municipal boundaries, and boundaries of all block land transfers and development control zones if not

incorporated within community or municipal boundaries;

- (d) consistent with national security requirements, all existing and abandoned military installations and properties, and presently proposed sites;
- (e) all lands held in fee simple;
- (f) all surface leases, mineral and oil and gas leases and mineral permits, and other permits, licences and authorizations as considered necessary and reasonable by the parties;
- (g) all tourist, sports and naturalist lodges including areas of use;
- (h) all outpost camps;
- (i) potential and proposed hydro-power developments sites not already identified to TFN;
- (j) maps indicating the location of all known carving stone deposits referred to in Section 18.1.2 of the Principles to Guide the Identification of Inuit Settlement Lands Provisions; and
- (k) bodies of water referred to in Section 19.5.10.

19.3.2 Government shall be obligated to delineate the areas pursuant to Sub-sections 19.3.1(a) to (c), (g), (h), (i) and (k) in broad outline only, unless precise boundaries are readily available.

19.3.3 Government shall provide precise boundaries or locations for the areas pursuant to Sub-sections 19.3.1(d) to (f) and (j).

19.3.4 Government and TFN shall form a technical committee to coordinate the exchange of information pursuant to Section 19.3.1. To facilitate the exchange of information, TFN agrees to provide Government with copies of its third party interest maps.

#### PART 4: LAND QUANTUM NEGOTIATIONS

19.4.1 Upon conclusion of the community preparation program and prior to January 15, 1989, TFN and Government agree to negotiate an overall land quantum, composed of a quantum for each land use region as set out in Schedule 19-2. The land quantum shall be determined through negotiations between TFN and Government in one regional centre in each land use region identified in Schedule 19-2. TFN may involve representatives of the Community Land Identification Negotiating Teams (CLINTS) in those regions.

19.4.2 The parties acknowledge the variation in biological productivity and economic potential of land surrounding the communities of the Nunavut Settlement Area, and agree that land quantum for each land use region identified in Schedule 19-2 shall reflect these variations.

#### PART 5: LAND OWNERSHIP NEGOTIATIONS

19.5.1 Land ownership negotiations shall commence as soon as possible after approval of the Agreement.

19.5.2 Land ownership negotiations shall be conducted in each land use region identified in Schedule 19-2 and, where necessary, in particular communities within regions.

19.5.3 Land ownership negotiations for Inuit will be conducted by TFN and a CLINT for each community, composed of at least four local Inuit including at least one representative of the community elders, the Hunters and Trappers Association, the municipal council, the TFN regional negotiator, and a representative of the regional Inuit association.

19.5.4 Each CLINT will prepare maps showing its community's areas of interest. These maps shall be prepared using 1:250,000 scale National Topographic Service maps or at other scales where appropriate. TFN will provide Government with CLINT maps for all communities in each of the land use regions identified in Schedule 19-2 before community land ownership negotiations commence in a region.

19.5.5 The areas of interest referred to in Section 19.5.4 shall be one and one-half times greater than that community's share of the regional land quantum. The maps showing the areas of interest shall be accompanied by an estimate of the size of the parcels and an indication of use and priority. For communities where this ratio is inappropriate, areas of interest shall be identified on a case-by-case basis, and for such areas the provisions of Section 19.5.9 shall not apply.

19.5.6 Upon receipt of the CLINT maps for a region, Government shall supply lists, maps, or a combination of the two, that identify all third party rights and interests within

the areas of interest referred to in Section 19.5.4 that have not already been provided and shall update the material already supplied as applicable. As well, Government shall supply lists, maps, or a combination of the two, of lands which are being used or may be required for public purposes and utilities within the areas of interest. Government will comment on the areas of interest as outlined in the CLINT maps.

19.5.7 Upon completion of the events described in Section 19.5.6, the parties shall negotiate the land which Inuit will own in each land use region identified in Schedule 19-2.

19.5.8 When Government, TFN and the CLINTS have agreed to the land to be held by Inuit in each Land Use Region identified in Schedule 19-2, the maps identifying such lands will be initialled by members of the CLINTS, Government and TFN for incorporation into the Final Agreement.

19.5.9 Upon conclusion of land ownership negotiations, at least 75% of the land Inuit will own shall be from within the areas of interest as previously identified by each CLINT, unless in exceptional circumstances the proposed configuration would give rise to significant problems. Such lands may be held in either or both of the forms described in Section 20.3.1 of the Title to Inuit Settlement Lands Provisions.

19.5.10 Inuit Settlement Lands shall not include certain water bodies that may be agreed upon during land identification, even though they are completely enclosed by Inuit Settlement Lands. Legal descriptions to such

water bodies shall be appended to the Final Agreement. Government undertakes to supply a list of water bodies that it would prefer not being identified as Inuit Settlement Lands in advance of land ownership negotiations. Government may identify further water bodies during the land ownership negotiations.

#### PART 6: PROTECTION OF LANDS

19.6.1 After descriptions have been agreed upon by the parties for all the land identified on the maps initialled for each region pursuant to Section 19.5.8, those lands shall be withdrawn from disposal under the Territorial Lands Act or the Commissioner's Land Act, as may be applicable, provided adequate property descriptions are available. Such withdrawals shall be subject to existing interests and associated benefits and privileges, including rights of renewals as might have been granted had the land not been withdrawn. Between the date of the land withdrawal and the date of the ratification of the Final Agreement, as long as the parties are negotiating in good faith, no other leases or other alienations of such lands shall be granted by Government without the consent of TFN. In cases concerning an overriding national interest, leases or other alienations of lands may be granted by Government, but only with the prior approval of the Minister, and only after consultation with the TFN and the affected CLINTS.

19.6.2 Notwithstanding Section 19.6.1, where a sub-surface interest exists at the time of land withdrawal, Government may grant to the sub-surface rights holder any lease or alienation of land which is required for the exercise of that right until the date of the

ratification of the Final Agreement. Before granting any such lease or other alienation, Government shall notify and consult with TFN and shall take into account, to the extent practical, any recommendation of TFN.

19.6.3 The attached "Discussion Paper on Interim Protection", dated April 11, 1988, attached as Schedule 19-3, shall be referred for approval by Cabinet and the TFN Board of Directors as part of the Agreement.

#### PART 7: RELATIONSHIP TO MUNICIPAL BOUNDARIES

19.7.1 The determination of municipal boundaries shall be done in accordance with the Municipal Lands Provisions of the Agreement, and shall, where required by a CLINT or Government, occur during the same process as Inuit Settlement Land identification process.



SCHEDULE 19-1

HIGH ARCTIC LANDS EXEMPTED FROM SELECTION  
AS INUIT SETTLEMENT LANDS

Melville  
Island

Commencing at the intersection of 75°00'N latitude and 110°00'W longitude, on the eastern boundary of the Inuvialuit Settlement Region;

thence northeasterly to the intersection of 75°05'N latitude and 109°00'W longitude;

thence southeasterly to the western shore of Skene Bay at 75°00'N latitude and approximately 108°00'W longitude;

thence northeasterly to the intersection of 75°18'N latitude and 107°00'W longitude;

Byam Martin  
Channel

thence northerly to the intersection of 76°00'N latitude and 105°00'W longitude, in Byam Martin Channel;

thence southeasterly to the intersection of 75°51'N latitude and the western shore of Ille Marc at approximately 103°49'W longitude;

thence southeasterly to the intersection of 75°45'N latitude and the western shore of Alexander Island at approximately 103°21'W longitude;

thence easterly along the southern shore of Alexander Island to the intersection of 75°47'N

latitude and  $102^{\circ}32'W$  longitude;

Bathurst Island thence due east along said parallel to its intersection with 101°00'W longitude, on Bathurst Island;

thence northeasterly to the intersection of the north shore of Dundee Bight and  $76^{\circ}00'N$  latitude at approximately  $99^{\circ}57'W$  longitude;

thence northeasterly to mouth of the Stuart River on the east shore of Stuart Bay at approximately  $76^{\circ}10'N$  latitude and  $99^{\circ}24'W$  longitude;

thence northwesterly to Cape Mary at the intersection of  $76^{\circ}38'N$  latitude and  $99^{\circ}40'W$  longitude;

Allard and thence due east along said parallel to the west  
Ricards coast of Allard Island at approximately  $99^{\circ}23'W$   
Islands longitude, and then easterly along the north coast  
to the northernmost point of said island;

thence northeasterly to the west coast of Ricards Island at approximately  $76^{\circ}40'N$  latitude and  $99^{\circ}09'W$  longitude and then easterly along the north coast to the northeasternmost point of said island;

thence easterly to the coast of Bathurst Island at approximately  $76^{\circ}41'N$  latitude and  $98^{\circ}46'W$  longitude, north of Cracroft Sound;

thence easterly along the northern coast of Bathurst Island to Cape Lady Franklin at  $76^{\circ}40'N$  latitude and approximately  $98^{\circ}27'W$  longitude;

**Devon Island** thence northeasterly to and along the north coast of Pioneer Island and to and along the north coast of the Grinnell Peninsula of Devon Island to Cape Briggs at  $77^{\circ}12'N$  latitude and approximately  $95^{\circ}43'W$  longitude;

thence northeasterly to the intersection of  $77^{\circ}26'N$  latitude and  $93^{\circ}30'W$  longitude in Norwegian Bay;

**Axel Heiberg Island** thence northeasterly to Cape Southwest on Axel Heiberg Island at  $78^{\circ}12'N$  latitude and approximately  $92^{\circ}02'W$  longitude;

thence easterly along the coast of Axel Heiberg Island to Hyperite Point at  $78^{\circ}09'N$  latitude and approximately  $88^{\circ}51'W$  longitude;

thence northerly following the west shore of Wolf Fiord to the intersection of approximately  $78^{\circ}38'N$  latitude and  $88^{\circ}45'W$  longitude;

thence northerly to a point west of Skaare Fiord at  $79^{\circ}00'N$  latitude and  $88^{\circ}20'W$  longitude;

thence northerly to the intersection of  $79^{\circ}43'N$  latitude and  $88^{\circ}00'W$  longitude;

**Ellesmere Island** thence easterly to the intersection of  $80^{\circ}00'N$  latitude and  $87^{\circ}00'W$  longitude in Eureka Sound;

Fosheim  
Peninsula

thence easterly to the shore of Slidre Fiord at 79°58'N latitude and approximately 86°25'W longitude, near Cape Hare;

thence east along the south shore of Slidre Fiord to the intersection of 79°55'N latitude and approximately 85°00'W longitude;

thence southeasterly to the intersection of 79°38'N latitude and 83°45'W longitude in the Sawtooth Mountains;

thence northerly to the intersection of 79°41'N latitude and 83°40'W longitude;

thence southerly to the intersection of 79°37'N latitude and 83°35'W longitude;

Canon Fiord

thence southeasterly to the intersection of 79°43'N latitude and 82°00'W longitude and thence along said parallel to the west shore of Canon Fiord at approximately 82°00'W longitude;

thence easterly following the south shore of Canon Fiord to the intersection of 79°39'N latitude and 79°50'W longitude;

thence easterly along the southern edge of the Agassiz Ice Cap to the intersection of 79°42'N latitude and 79°05'W longitude;

thence southwesterly to the intersection of 79°38'N latitude and 79°43'W longitude;

thence southerly to the intersection of 79°12'N latitude and 80°00'W longitude;

**Sawyer Bay** thence northeasterly to the west shore of Sawyer Bay at 79°21'N latitude and approximately 78°05'W longitude;

**Copes Bay** thence northeasterly to the west shore of Copes Bay at approximately 79°30'N latitude and 77°10'W longitude;

**Dobbin Bay** thence northeasterly to the southwest shore of Dobbin Bay at approximately 79°47'N latitude and 74°45'W longitude;

thence east and south along the south shore of Dobbin Bay to 79°32'N latitude and approximately 73°06'W longitude, near Cape Hawks;

thence due east to the seaward extent of the Territorial Sea Boundary;

**Inuvialuit Settlement Region** thence north and west along the Territorial Sea Boundary to its intersection with the eastern boundary of the Inuvialuit Settlement Region at 110°00'W longitude; and finally

thence due south along said meridian to its intersection with 75°00'N latitude at the point of commencement.

SCHEDULE 19-2

LAND USE REGIONS

1.	<u>Kitikmeot West</u>	4.	<u>North Baffin</u>
	Coppermine *		Grise Fiord
	Cambridge Bay *		Resolute Bay
	Bathurst Inlet		Arctic Bay
	Bay Chimo		Pond Inlet *
			Clyde River
			Igloolik *
			Hall Beach
2.	<u>Kitikmeot East</u>	5.	<u>South Baffin</u>
	Spence Bay		Broughton Island *
	Pelly Bay		Pangnirtung
	Gjoa Haven *		Iqaluit *
			Lake Harbour
			Cape Dorset
3.	<u>Keewatin</u>	6.	<u>Sanikiluaq</u>
	Arviat (Eskimo Point)		Sanikiluaq *
	Whale Cove		
	Chesterfield Inlet		
	Rankin Inlet *		
	Baker Lake *		
	Coral Harbour		
	Repulse Bay *		

\*      Regional and alternative centres

SCHEDULE 19-3

DISCUSSION PAPER ON INTERIM PROTECTION

1. Areas critical to Inuit land ownership needs shall be withdrawn from disposal of surface and sub-surface rights under the Territorial Lands Act. The area of land that shall be so withdrawn shall not exceed 20% of the agreed land quantum for each region.
2. Following the conclusion of land quantum negotiations and the Agreement, the TFN and CLINTS, in providing their regional "areas of interest" maps, will identify those specific areas critical to Inuit land area ownership needs. Within five weeks of reviewing the TFN and CLINT regional "areas of interest" maps, Government shall withdraw from disposition areas critical to Inuit land ownership needs, unless there are specific concerns that require resolution through negotiation with the TFN and CLINTS. Such withdrawals will be subject to existing interests and associated benefits and privileges.
3. Land ownership negotiations within a region shall not commence until Government has withdrawn from disposition of surface and subsurface rights all areas critical to Inuit land ownership needs for that region.
4. The protection outlined herein will remain in effect until the parties have agreed upon the land selections for a region or until the target date for achieving a Final Agreement has been surpassed.

SCHEDULE 19-3 (Continued)

5. Application of this interim protection to any parcel of land shall not be interpreted as meaning that Inuit will ultimately hold title to those lands following land ownership negotiations.

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## ARTICLE 20: TITLE TO INUIT SETTLEMENT LANDS

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ARTICLE 20: TITLE TO INUIT SETTLEMENT LANDS

PART 1: DEFINITIONS

20.1.1 In this Article:

"carving stone" means utkuhighak and hananguagahaq, which means serpentinite, argillite, and soapstone suitable for carving purposes;

"Inuit Settlement Lands" means

- (a) those lands that are identified pursuant to the Inuit Land Identification Provisions, and whose legal descriptions are appended to the Final Agreement,
- (b) those lands that may be acquired by Inuit from time to time pursuant to those provisions of the Final Agreement allowing for an exchange of lands with the Crown, and
- (c) those lands that may be acquired or re-acquired by Inuit from time to time pursuant to Sections 23.8.5 or 23.8.12 of the Entry and Access Provisions;

"significant deposit" means a deposit of carving stone determined by the Designated Inuit Organization (DIO) to be suitable for the exercise of Inuit rights under Sections 20.5.2 and 20.5.7;

"water" means waters in any river, stream, lake or other body of inland waters on the surface or under ground in the Nunavut Settlement Area and includes

- (a) all inland ground waters, and
- (b) ice.

20.1.2 Title to Inuit Settlement Lands shall include title to those lands covered by water. Title shall not include lands covered by water where Inuit Settlement Lands adjoin water bodies on only one side or do not enclose the water body.

#### **PART 2: SAVING OF CERTAIN MANAGEMENT RIGHTS**

20.2.1 Notwithstanding anything in Section 20.1.2, Government has the right, subject to this Agreement, to protect and manage water and land covered by water throughout the Nunavut Settlement Area for public purposes, including:

- (a) management and research in respect of wildlife, and aquatic habitat;
- (b) protection and management of navigation and transportation, establishment of navigation aid devices, and dredging of navigable water bodies;
- (c) protection of community water supplies from contamination and degradation; and
- (d) flood control and fire fighting.

**PART 3: FORM OF TITLE**

20.3.1 Inuit Settlement Lands may be held either in:

- (a) fee simple; or
- (b) fee simple saving and excepting the mines and minerals, whether solid, liquid or gaseous, that may be found to exist within, upon or under such lands, together with the right to work the same, but including the right to all construction stone, sand and gravel, limestone, marble, gypsum, shale, clay, volcanic ash, earth, soil and diatomaceous earth, ochre, marl peat, utkuhighak and hananguagahaq.

**PART 4: LAND QUANTUM**

20.4.1 Inuit shall hold title to Inuit Settlement Lands in the amount and in the form specified in Schedules 20-1 to 20-7.

**PART 5: RIGHTS TO SOAPSTONE**

20.5.1 Following the date of the ratification of the Final Agreement, Government shall notify the DIO of the discovery of any new deposits of carving stone on Crown lands.

20.5.2 Following the date of the ratification of the Final Agreement, the DIO shall, subject to government obligations respecting third party rights, have the right:

(a) to obtain an exclusive quarry lease to significant deposits of carving stone; or

(b) to acquire title to the land containing significant deposits of carving stone in exchange for other Inuit Settlement Lands.

20.5.3 If Government and the DIO cannot agree pursuant to Sub-section 20.5.2(b), the matter shall be referred to arbitration pursuant to the Arbitration Provisions of the Final Agreement.

20.5.4 An Inuk shall have the right to remove up to 50 cubic yards per year of carving stone from Crown lands without a permit and the right may be exercised on Crown lands that are subject to other interests on condition that:

(a) there be no significant damage caused; and

(b) there be no significant interference with use and quiet enjoyment of the land by the interest holder.

20.5.5 In the event of any conflict between a DIO holding a lease or permit and a subsurface rights-holder, the conflict shall be resolved by the Surface Rights Tribunal.

20.5.6 No person other than a DIO may be granted a permit or a lease to quarry carving stone on Crown lands for carving purposes, or for disposing of carving stone for carving purposes.

20.5.7 Prior to the establishment of a National Park in the Nunavut Settlement Area, the agency responsible shall undertake at the request of Inuit in affected communities, when there is potential for carving stone, a detailed study to determine the location, extent and quality of any deposit of carving stone within the proposed boundaries. At the request of Inuit, significant deposits of carving stone and routes of access shall be excluded from the boundaries of the park, insofar as such exclusions would not appreciably detract from the park purpose or objectives.

20.5.8 Sections 20.5.1 to 20.5.6 inclusive do not apply within National Parks. Within National Parks, Inuit have the right to remove carving stone subject to conditions included in an Inuit Impact and Benefit Agreement (IIBA) regarding technology, amount, physical access, the protection of the environment and integrity of the park, and any other terms and conditions as may be appropriate. Methods of extraction in National Parks shall be limited to non-powered hand tools and shall exclude explosives, except as permitted by the agency responsible.

20.5.9 Within Conservation Areas and Territorial Parks, Inuit rights under Sections 20.5.2 and 20.5.4 shall be exercised only as provided for in an IIBA.

SCHEDULE 20-1

LAND QUANTUM: NORTH BAFFIN LAND USE REGION

1. The following communities are within the North Baffin land use region: Arctic Bay, Clyde River, Grise Fiord, Hall Beach, Igloolik, Pond Inlet and Resolute Bay.
2. The parties agree that Inuit shall hold title to 33,230 square miles of land in the North Baffin land use region, which region includes:
  - (a) the lands within the North Baffin boundary, as defined by TFN and shown in a 1:2,000,000 scale map initialled by the parties and marked as Exhibit 'A', being more or less 191,187 square miles in area; and
  - (b) the lands within that portion of the Fosheim Peninsula shown on the map, and being 1,332 square miles in area.
3. For greater certainty, land shall be identified in accordance with the Purposes of Inuit Settlement Lands Provisions.

SCHEDULE 20-2

LAND QUANTUM: SOUTH BAFFIN LAND USE REGION

1. The following communities are within the South Baffin land use region: Broughton Island, Pangnirtung, Iqaluit, Lake Harbour and Cape Dorset.
2. The parties agree that Inuit shall hold title to 25,500 square miles of land in the South Baffin land use region, which encompasses those lands within the South Baffin boundary, as defined by TFN and shown on a 1:2,000,000 scale map initialled by the parties and marked as Exhibit 'A', being more or less 112,675 square miles in area.

SCHEDULE 20-3

LAND QUANTUM: KEEWATIN LAND USE REGION

1. The following communities are within the Keewatin land use region: Eskimo Point, Whale Cove, Rankin Inlet, Chesterfield Inlet, Baker Lake, Coral Harbour and Repulse Bay.
2. The parties agree that Inuit shall hold title to 36,890 square miles of land in the Keewatin land use region, which encompasses those lands within the Keewatin boundary, as defined by TFN and shown on a tracing over a 1:2,000,000 scale map initialled by the parties and marked as Exhibit 'A', being an amount of land approximating, but not exceeding, 204,943 square miles in area.

SCHEDULE 20-4

LAND QUANTUM: KITIKMEOT EAST LAND USE REGION

1. The following communities are within the Kitikmeot East land use region: Gjoa Haven, Pelly Bay and Spence Bay.
2. The parties agree that Inuit shall hold title to 14,275 square miles of land in the Kitikmeot East land use region, which encompasses those lands within the Kitikmeot East boundary, as defined by TFN and shown on a 1:2,000,000 scale map initialled by the parties and marked as Exhibit 'A', being more or less 81,577 square miles in area.

SCHEDULE 20-5

LAND QUANTUM: KITIKMEOT WEST LAND USE REGION

1. The following communities are within the Kitikmeot West land use region: Bathurst Inlet, Bay Chimo, Cambridge Bay and Coppermine.
2. The parties agree that Inuit shall hold title to 25,495 square miles of land in the Kitikmeot West land use region, which encompasses those lands within the Kitikmeot West boundary, as defined by TFN and shown on a 1:2,000,000 scale map initialled by the parties and marked as Exhibit 'A', being more or less 149,971 square miles in area.

SCHEDULE 20-6

**LAND QUANTUM: SANIKILUAQ LAND USE REGION**

1. The community of Sanikiluaq is the only community within the Sanikiluaq land use region.
2. The parties agree that the amount of land to which Inuit shall hold title in the Sanikiluaq land use region will be determined through land ownership negotiations following ratification of the Agreement. The Sanikiluaq land use region encompasses the lands within the Sanikiluaq boundary, as defined by TFN and shown on a 1:2,000,000 scale map initialled by the parties and marked as Exhibit 'A', being more or less 1,317 square miles in area.
3. It is the intention of the parties that the Sanikiluaq Region will be the first region to be the subject of land ownership negotiations.

SCHEDULE 20-7

LAND QUANTUM: SUBSURFACE

1. Of the total quantum of Inuit Settlement Lands, the parties agree that Inuit shall hold title to 14,000 square miles of land in fee simple as provided in Sub-section 20.3.1(a) of the Title to Inuit Settlement Lands Provisions. The allocation of this land among the Kitikmeot West, Kitikmeot East, Keewatin, South Baffin, North Baffin and Sanikiluaq land use regions shall be determined through land ownership negotiations.

ARTICLE 21: INUIT WATER RIGHTS

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## **ARTICLE 21: INUIT WATER RIGHTS**

### **PART 1: INUIT WATER RIGHTS**

21.1.1 In this Article:

"use of water" includes the use of water power;

"water" means waters in any river, stream, lake or other body of inland waters on the surface or under ground in the Nunavut Settlement Area, and includes

- (a) all inland ground waters, and
- (b) ice.

### **PART 2: RIGHTS OF INUIT**

21.2.1 In this Article, any rights vested in a Designated Inuit Organization (DIO) are vested in trust for the use and benefit of Inuit.

21.2.2 Unless otherwise expressly excepted at the time of selection, the DIO shall have the exclusive right to the use of water on, in, or flowing through Inuit Settlement Lands.

21.2.3 Unless otherwise expressly excepted at the time of land identification, the banks of all water bodies within Inuit Settlement Lands shall be vested in the DIO.

21.2.4 Notwithstanding Section 21.2.2, any use of water on Inuit Settlement Lands must comply with the terms of

the Water Management Provisions on water use and disposition.

21.2.5 Subject to Section 21.5.1, the DIO shall have the right to have water flow through Inuit Settlement Lands substantially unaffected in quality and quantity and flow.

### PART 3: COMPENSATION

21.3.1 No project or activity within the Nunavut Settlement area which may substantially affect the quality of water flowing through Inuit Settlement Lands, or the quantity of such water, or its flow, shall be approved by the Nunavut Water Board (NWB) unless the applicant for a licence has entered into a compensation agreement with the DIO for any loss or damage which may be caused by the change in quality, quantity or flow of the water or the NWB has made a determination in accordance with Section 21.3.2.

21.3.2 The applicant and the DIO shall negotiate in good faith for the purpose of reaching an agreement on compensation referred to in Section 21.3.1, but in the event that the parties are unable to reach agreement, either party may refer the determination of the appropriate compensation to the NWB, and the decision of the NWB shall be binding.

21.3.3 In determining the appropriate compensation for the proposed water use under Section 21.3.2, the NWB shall take into account the following:

- (a) the adverse effects of the water use on lands, owned or used by the person or group affected;
- (b) the nuisance, inconvenience, disturbance or noise caused by the water use to the person or group affected;
- (c) the adverse effects of the water use in combination with existing water uses;
- (d) the cumulative effect of the water use in combination with existing water uses;
- (e) the cultural attachment of Inuit to lands, including water, adversely affected by the water use;
- (f) the peculiar and special value of lands, including water, affected by the water use; and
- (g) interference with Inuit rights, whether derived from this Article or some other source.

21.3.4 Unless otherwise agreed by both parties, all awards shall provide for periodic payments and a periodic review for the purpose of adjustments, having due regard for the nature and duration of the water use. Costs of the DIO incurred in arbitration shall be borne by the applicant for water use unless otherwise determined by the NWB.



21.4.1 Where a project or activity occurring outside the Nunavut Settlement Area but within the present Northwest Territories may substantially affect the quality of water flowing through Inuit Settlement Lands, or the quantity of such water, or its flow, the project or activity shall not be approved by the competent water authority unless the applicant has entered into a compensation agreement with the DIO for any loss or damage that may be caused by the change in quality, quantity or flow, or unless such compensation has been determined in accordance with Section 21.4.2.

21.4.2 The applicant and the DIO shall negotiate in good faith for the purpose of reaching an agreement on compensation referred to in Section 21.4.1, but in the event that the parties are unable to reach agreement, either party may refer the determination of the appropriate compensation for a joint determination by the NWB and the competent authority, and the joint decision shall be binding. The decision shall be governed by Sections 21.3.3 and 21.3.4.

21.4.3 Unless agreed otherwise, negotiations of overlap provisions shall address reciprocal or alternate arrangements to Section 21.4.2.

#### PART 5: SAVINGS

21.5.1 Subject to the compensation provisions herein, the NWB shall retain the jurisdiction to approve water uses throughout the Nunavut Settlement Area.

21.5.2 Nothing in these provisions shall derogate from public rights of navigation, rights of innocent public passage

on water, or use of water for emergency purposes or the ability to use water for domestic use as defined in the Northern Inland Waters Act.

21.5.3 Access to water on Inuit Settlement Lands shall be governed by Sections 23.9.1 and 23.9.2 of the Entry and Access Provisions.

21.5.4 This Article shall be subject to Sections 23.3.1 to 23.3.4 and 23.3.9 of the Entry and Access Provisions.

#### **PART 6: APPLICATION**

21.6.1 For greater certainty Sections 21.2.5 and Parts 21.3 and 21.4 shall apply where a body of water delineates a boundary between Inuit Settlement Lands and other lands and that body of water is not located entirely on Inuit Settlement Lands.

21.6.2 The relevant provisions of the Entry and Access Provisions shall apply to entry and access to ice.

#### **PART 7: STANDING**

21.7.1 The DIO shall have standing at all times in a court of competent jurisdiction to seek a determination of the authority of any person to use water in the Nunavut Settlement Area or to change the quality, quantity or flow of water.



ARTICLE 22: VESTING, REGISTRATION, ALIENATION AND BOUNDARIES

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## ARTICLE 22: VESTING, REGISTRATION, ALIENATION AND BOUNDARIES

### PART 1: DEFINITIONS

#### 22.1.1 In this Article:

"artificial boundary" means a straight line established on the ground by monuments placed in accordance with the Canada Land Surveys Act, Land Titles Act or other applicable legislation;

"natural boundary" means a boundary at any instant corresponding to the position of a designated natural feature as it exists at that instant, and the boundary position changes with the natural movements of the feature so long as those movements are gradual and imperceptible from moment to moment;

"navigable water" means a stream, river, lake, sea or other body of water, capable of navigation by boat or other craft for commercial or non-commercial purposes;

"ordinary high water mark" of a body of water means the limit or edge of its bed and in the case of non-tidal waters it may be called "the bank" or "the limit of the bank".

### PART 2: VESTING

#### 22.2.1 Notwithstanding any legislation or other law, Inuit Settlement Lands shall vest automatically in Designated Inuit Organizations (DIOs) upon ratification of the Final Agreement, and the fact that title has vested in accordance with this section shall be recorded in any

registry or office necessary to give notice to persons dealing with such lands.

22.2.2 Legal descriptions of all Inuit Settlement Lands shall be prepared by Government and approved by the Tungavik Federation of Nunavut (TFN), and appended to the Final Agreement.

#### PART 3: REGISTRATION

22.3.1 The Government of Canada undertakes to carry out all steps necessary, at no cost to Inuit, to register title to Inuit Settlement Lands. In the event of expropriation, these responsibilities shall fall on the expropriating authorities.

#### PART 4: ALIENATION OF INUIT TITLE

22.4.1 Title to Inuit Settlement Lands shall not be conveyed, transferred or otherwise divested except to the Crown or as otherwise provided in the Final Agreement, and any agreement contrary to this section shall be null and void. This section shall not be construed as preventing the grant of leases, licences or any other interest less than fee simple in or over Inuit Settlement Lands.

#### PART 5: BOUNDARIES AND SURVEYS

##### Principles

22.5.1 Boundaries following distinct natural features of the land are most desirable in describing Inuit Settlement Lands.

22.5.2 Certain lands will require clarification of boundary locations because of public or private interests on adjoining lands and such lands may require surveys to locate the boundaries.

22.5.3 The majority of Inuit Settlement Lands will not require surveys to determine the boundaries or to have title issued to Inuit.

Boundaries

22.5.4 Boundaries of Inuit Settlement Lands shall be:

- (a) natural boundaries, including, but not limited to, navigable waters, non-navigable waters and well-defined heights of land;
- (b) artificial boundaries; or
- (c) both.

22.5.5 Natural boundaries shall be adopted as follows:

- (a) natural boundaries of Inuit Settlement Lands along navigable waters and non-navigable waters shall be located at the ordinary high water mark, unless otherwise agreed to by the parties;
- (b) natural boundaries shall move with the various natural processes of erosion and accretion; where an offset natural boundary is prescribed, it is also deemed to move and vary according to this natural movement of the natural boundary.

22.5.6 Lands within 100 feet of the boundary of the Nunavut Settlement Area shall not be identified as Inuit Settlement Lands, except where the bank of a river or lake forms part of the boundary of the Nunavut Settlement Area.

22.5.7 Government and Inuit shall identify any critical features to be enclosed within any particular parcel of Inuit Settlement Lands. Such features shall be taken into account when boundary descriptions are prepared.

22.5.8 The Government of Canada shall be responsible for all costs incurred in writing legal descriptions defining Inuit Settlement Lands identified pursuant to the Identification of Inuit Settlement Lands Provisions.

#### Surveys

22.5.9 The boundaries of Inuit Settlement Lands shall be surveyed where TFN and Government agree by the time of the Final Agreement that potential conflicts with other title or interest holders require resolution. Surveys shall be limited to lands:

- adjoining other titled lands;
- adjoining municipalities;
- including both surface and subsurface estates; or
- in which Government has an interest.

22.5.10 The Government of Canada shall be responsible for the costs of all required surveys for the outer boundaries

of Inuit Settlement Lands as specified in Section 22.5.9, and shall conduct them as quickly as resources allow. All other surveys shall be at the expense of the party requiring the survey.

22.5.11 The Territorial Government shall be responsible for the costs of legal descriptions and surveys required pursuant to Section 14.10.1 of the Municipal Lands Provisions.



## ARTICLE 23: ENTRY AND ACCESS

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## ARTICLE 23: ENTRY AND ACCESS

### PART 1: DEFINITIONS

#### 23.1.1 In this Article:

"Arbitration Board" means the Arbitration Board referred to in the Arbitration Provisions;

"foreshore" means that stretch of land between the edge of the water and the ordinary high water mark;

"minerals" means resources, as defined in the Resource Royalty Sharing Provisions;

"navigable" means capable of navigation by boat or other craft for commercial or non-commercial purposes;

"NWB" means the Nunavut Water Board referred to in the Water Provisions;

"royalty" has the meaning defined in the Resource Royalty Provisions;

"Surface Rights Tribunal" means the independent tribunal described in Part 7;

"use of water" includes the use of water power;

"water" means waters in any river, stream, lake or other body of inland waters on the surface or under ground in the Nunavut Settlement Area, and includes

(a) all inland ground waters, and

(b) ice.

#### PART 2: ACCESS ONLY WITH CONSENT

23.2.1 Except where otherwise provided in the Final Agreement persons other than Inuit may not enter, cross and remain on Inuit Settlement Lands without the consent of the Designated Inuit Organization (DIO).

#### PART 3: PUBLIC ACCESS

23.3.1 There shall be a public right of access for the purpose of travel by water or ice and for recreation to a 100 foot strip of Inuit Settlement Lands bounding the sea coast, navigable rivers, navigable lakes that can be entered from the said rivers, and such water bodies as agreed to pursuant to Section 19.5.10 of the Identification of Inuit Settlement Lands Provisions. The said strip shall be measured from the ordinary high water mark of the sea coast and the said navigable rivers, lakes and water bodies. The right of access includes access to the foreshore adjacent to the said strip.

23.3.2 A member of the public exercising the right of access referred to in Section 23.3.1 may harvest wildlife other than for commercial purposes, but subject always to laws of general application and the Wildlife Provisions.

23.3.3 A member of the public may harvest wildlife in the waters referred to in Section 23.3.1, but subject always to laws of general application and the Wildlife

Provisions.

23.3.4 No person

(a) exercising the right of access referred to in Section 23.3.1, or

(b) harvesting wildlife pursuant to Section 23.3.3, shall engage in any development activity or establish camps or structures, other than for merely casual or temporary purposes, on the said strip.

23.3.5 Where the DIO requires exclusive possession, the right of access referred to in Section 23.3.1, the right to harvest referred to in Section 23.3.2, and the right to cross Inuit Settlement Lands referred to in Section 23.3.10 may be removed with the agreement of the DIO and Government.

23.3.6 Where the DIO and Government agree, the right to harvest referred to in Section 23.3.3 may be removed.

23.3.7 A member of Parliament, the Legislative Assembly, or any municipal council or regional government, or a candidate for election to such bodies, or a person accompanying and assisting any such member or candidate, may enter on Inuit Settlement Lands for the purpose of campaigning for an election.

23.3.8 A member of the public may enter and remain on Inuit Settlement Lands for emergency purposes.

23.3.9 During the course of Inuit land ownership negotiations, the parties shall further examine the subject of public access to Inuit Settlement Lands and waters on Inuit Settlement Lands to harvest wildlife.

23.3.10 Members of the public may cross Inuit Settlement Lands for the purpose of personal or casual travel, such as to go to or from their place of work or to or from a place of recreation. Whenever possible, crossings shall take place on routes designated by the DIO. The right to cross shall include the right to make any necessary stops.

23.3.11 With the consent of the DIO, persons conducting research for public knowledge shall have the same right of access to Inuit Settlement Lands as agents, employees and contractors of Government.

23.3.12 The right of access to Inuit Settlement Lands set out in this Part is subject to the conditions that there be:

- (a) no significant damage caused;
- (b) no mischief committed; and
- (c) no significant interference with Inuit use and quiet enjoyment of the lands.

23.3.13 Persons exercising rights under this Part shall be:

- (a) liable for damages caused to the lands; and

(b) deemed to be trespassers and may be removed from the land, if they fail to comply with the conditions of this Article.

#### PART 4: GOVERNMENT ACCESS

23.4.1 Agents, employees and contractors of Government shall have the right, in accordance with this Article, to enter, to cross and to remain on Inuit Settlement Lands and water on Inuit Settlement Lands to carry out legitimate government purposes relating to the delivery and management of their programs and enforcement of laws.

23.4.2 Should Government require continuing use or occupancy of Inuit Settlement Lands for more than two years, including use for unmanned facilities, the DIO may require Government to obtain an interest in the land.

23.4.3 The right in Section 23.4.1 shall be subject to Sub-section 23.3.12(b) and Section 23.3.13.

23.4.4 In a case where more than insignificant damage may be caused to the land, or where there may be more than insignificant interference with Inuit use and quiet enjoyment of the land, Government shall consult the DIO and seek its agreement regarding the procedures for exercising government access under Section 23.4.1. Where agreement cannot be achieved, the matter shall be referred to the Arbitration Board. Activities identified in Schedule 23-1 shall not be subject to the requirements of this section.

23.4.5 Without limiting the generality of this section, procedures required under Section 23.4.4 for exercising government access shall ensure that:

- (a) environmental protection measures are consistent with the provisions of the Final Agreement;
- (b) information is provided; and
- (c) location, time and duration of access is addressed.

23.4.5 Notwithstanding Section 23.4.1, access to Inuit Settlement Lands by Government personnel for the purposes of wildlife management and wildlife research shall be subject to Section 5.46.1 of the Wildlife Provisions.

23.4.7 The exercise of the right in Section 23.4.1 shall not be subject to the provision of a security bond, but may be subject to a fee if provided for in legislation.

23.4.8 In the event that any person exercising access under Section 23.4.1 causes damage to Inuit Settlement Lands, and Government and the DIO are unable to agree on compensation for damages, the matter shall be referred to the Arbitration Board, which may determine liability and fix appropriate compensation.

23.4.9 The Department of National Defence (DND) shall have no greater rights to conduct military manoeuvres, including exercises and movements, on Inuit Settlement Lands than it has with respect to other non-public lands under generally applicable legislation. For

greater certainty, this section shall prevail over Section 23.4.10.

23.4.10 Other than as provided in the National Defence Act, access onto and across Inuit Settlement Lands for each manoeuvre or set of manoeuvres shall only occur after the negotiation and conclusion of an agreement with the DIO dealing with contact persons, consultation mechanisms and timing thereof, and compensation for damages. The agreement may be amended from time to time.

23.4.11 Reasonable advance notice, in Inuktitut, of military manoeuvres shall be given by DND to the inhabitants of any area affected.

#### PART 5: SAND AND GRAVEL

23.5.1 Notwithstanding anything in Sub-section 20.3.1(b) of the Title to Inuit Settlement Lands Provisions, if Government requires sand and gravel and other like construction materials from Inuit Settlement Lands for public purposes, but the DIO refuses to permit Government to take the said materials, Government may apply to the Surface Rights Tribunal for an entry order enabling the removal of such material.

23.5.2 The Surface Rights Tribunal may grant an entry order only if it determines that:

- the materials are required for public purposes;
- no alternative supply is reasonably available.



23.5.3 If an entry order is granted, Government shall pay the DIO the greater of:

- (a) \$1.00 per cubic metre for the materials, valued at the date of the Final Agreement and indexed by the Final Domestic Demand Implicit Price Index; or
- (b) the royalty rate imposed by the Crown, as amended from time to time, on the extraction of the materials from Crown lands.

23.5.4 The Surface Rights Tribunal shall determine the terms and conditions for access and compensation for access, and such compensation shall include, in addition to any amount mentioned in Section 23.5.3, payment of any entry fee required by legislation as well as compensation for access in accordance with Section 23.7.3.

23.5.5 An entry order shall include terms and conditions to minimize the damage and interference with Inuit use, and shall also provide that Government rehabilitate the site.

#### PART 6: THIRD PARTY ACCESS

##### Existing Interests

23.6.1 Where the DIO holds surface title to Inuit Settlement Lands subject to an existing third party interest in the surface, the third party interest shall continue in accordance with its terms and conditions, but the DIO shall assume the rights and obligations of the Crown in relation to any such interest. From the date of the

Final Agreement, the DIO shall receive whatever consideration is paid or is payable by the interest holder for the use or exploitation of those lands.

23.6.2 Where the DIO holds subsurface title to Inuit Settlement Lands which are subject to a third party interest, that interest shall continue in accordance with its terms and conditions, including rights granted to the interest holder under the legislation in force at the time of the Final Agreement pursuant to which the interest is held, or from any successor legislation applicable to similar interests on Crown lands. Any provisions of such successor legislation that would have the effect of diminishing the rights of the DIO shall only apply to Inuit Settlement Lands with the consent of the DIO. From the date of the Final Agreement, the DIO shall receive whatever consideration is paid or payable by the interest holder for the use or exploitation of the subsurface.

23.6.3 Every third party interest referred to in Section 23.6.2 shall continue to be administered by Government in accordance with legislation applicable to similar interests in Crown lands. Subject to any consent from the DIO required by Section 23.6.2, such legislation, including any successor legislation, shall be deemed to apply to the third party interest unless the holder of that interest and the DIO agree to the administration of that interest by the DIO. Upon notification by the interest holder and the DIO of such an agreement, the legislation shall no longer be deemed to apply to that interest and Government shall do whatever is required to transfer administration to the DIO.

23.6.4 Subject to Section 23.6.5, all powers, discretions and authorities in relation to third party interests referred to in Section 23.6.2, affecting the interest of the DIO as title holder, shall be exercised by Government in consultation with the DIO.

23.6.5 Where Government has the discretion to reduce or waive a royalty payable by a third party interest holder referred to in Section 23.6.2, such discretion shall not be exercised without the written consent of the DIO.

23.6.6 Government shall share with the DIO any information received from a third party interest holder identified under Section 23.6.2 which that party is required to provide by legislation, where such information is required to permit the DIO:

- (a) to verify the consideration paid or payable to Government by the interest holder for the use or exploitation of those lands; or
- (b) to participate in consultation with Government regarding third party interests as provided for in this Article.

23.6.7 A DIO receiving any information or documentation pursuant to Section 23.6.6 shall not disclose that information or documentation.

23.6.8 Sections 23.6.1 and 23.6.2 shall not apply where, during the land identification process, the parties agree that a third party interest will be terminated by Government.

### Exercise of Rights by Operators

23.6.9 Where a person or the authorized representative of a person (the "operator"), has the right to explore, develop, produce and transport minerals, in, on, or under Inuit Settlement Lands, that right may only be exercised in accordance with this Article.

23.6.10 Where an operator whose sub-surface rights are continued under Section 23.6.2 has been granted surface rights prior to the date of the Final Agreement, it may exercise those rights. Where an operator whose subsurface rights are continued under Section 23.6.2 has not been granted any surface rights, or the operator requires different surface rights, it may not exercise surface rights until it has obtained the consent of the DIO or has obtained an entry order from the Surface Rights Tribunal established pursuant to Section 23.7.1.

23.6.11 In any other circumstances than those dealt with in Sections 23.6.1, 23.6.2, and 23.6.10, no operator may exercise its rights until it has obtained the consent of the DIO for the surface access to Inuit Settlement Lands. If the operator is unable to obtain the consent of the DIO, it may apply to the Surface Rights Tribunal established pursuant to Section 23.7.1 for an entry order for its required purpose.

23.6.12 Where a person who has no other right of access under this Agreement, requires access to Inuit Settlement Lands to exercise a right under legislation to explore, develop, produce and transport minerals on lands other

than Inuit Settlement Lands, the provisions of Part 7 shall apply where it is established before the Surface Rights Tribunal that such access is reasonably required.

Other Commercial Purposes

23.6.13 Where the DIO has consented to permit a third party to cross Inuit Settlement Lands for commercial purposes but the parties are unable to agree on appropriate compensation, the matter shall be referred to the Surface Rights Tribunal for resolution.

23.6.14 Where a person requires access across Inuit Settlement Lands for commercial purposes, and is not otherwise covered in this Article, that person shall be permitted access, including on a seasonal basis where appropriate, with the consent of the DIO or, if such consent is not forthcoming only after the Arbitration Board, within 30 days of being presented with a request

- (a) has established that the person attempted for a period of not less than 60 days, to negotiate the access in good faith,
- (b) has determined that the access is essential to the commercial purpose and access by any other means is physically or financially impractical, and
- (c) has determined the route such access will follow so as to minimize the damage and interference with Inuit use,

and, based on the Arbitration Board's findings, the Surface Rights Tribunal, in keeping with Part 7, has issued an entry order. The entry order shall include terms and conditions to minimize damage and interference with Inuit use.

#### **PART 7: SURFACE RIGHTS TRIBUNAL**

##### **Establishment and Authority**

23.7.1 A DIO has the right to require Government to establish and continue an independent Surface Rights Tribunal ("the Tribunal") which shall have the authority within the Nunavut Settlement Area to carry out the following functions:

- (a) issue entry orders to operators to use and occupy lands to the extent necessary for their operations and subject to the payment of an entry fee to the owner or occupant in recognition of the forced nature of the taking, which fee shall be fixed by the appropriate legislation;
- (b) hold hearings to determine compensation payable to the surface rights holders;
- (c) periodically review the level of compensation payable under an entry order;
- (d) terminate an entry order, after a hearing, where lands are no longer being used for the purpose authorized; and

(e) such other functions as may be provided for in this Agreement or legislation.

23.7.2 Where the DIO is the surface title holder, it shall not be required to cover any of the costs of establishing or operating the Tribunal. Government may establish and continue the Tribunal notwithstanding the absence of a demand from a DIO, provided that the Tribunal fulfills the functions described in Section 23.7.1.

23.7.3 In determining the amount of compensation payable to the DIO in respect of Inuit Settlement Lands, the Tribunal shall consider

- (a) the market value of the land,
- (b) loss of use to the DIO and Inuit,
- (c) effect on wildlife harvesting by Inuit,
- (d) adverse effect of the taking, upon lands retained by the DIO,
- (e) damage which may be caused to the land taken,
- (f) nuisance, inconvenience and noise to the DIO and Inuit,
- (g) the cultural attachment of Inuit to the land,
- (h) the peculiar and special value of the land to Inuit,

- (i) an amount to cover reasonable costs associated with DIO inspections as deemed appropriate by the Tribunal,
- (j) an amount to cover reasonable costs to the DIO associated with the application for an entry order and its processing, and
- (k) such other factors as may be provided for in legislation,

but shall not consider the reversionary value or any entry fee payable.

23.7.4 Prior to exercising an entry order on Inuit Settlement Lands, the operator shall be required to pay the DIO the entry fee and 80% of its last compensation offer made to the DIO before it submitted the matter to the Tribunal.

23.7.5 The term DIO as used in Sections 23.7.3 and 23.7.4 shall include, where appropriate, any occupier of the land in question, and the Tribunal may apportion compensation between the DIO and the occupier.

23.7.6 With regard to Inuit Settlement Lands, the period for review under Sub-section 23.7.1(c) shall be the lesser of five years or whatever period is provided in legislation.

23.7.7 The legislation shall provide that at least half of the members of any panel in any case dealing with Inuit Settlement Lands shall be residents of the Nunavut Settlement Area.

23.7.8 The Tribunal shall conduct its business in Inuktitut and Canada's official languages when dealing with Inuit Settlement Lands.

23.7.9 In the event that a Nunavut Territory is created before the date of the Final Agreement, the parties shall re-address the issues of the place of residence of the Tribunal members and the location of the Tribunal's offices.

23.7.10 In the event that Government establishes a surface rights tribunal between the date of the Agreement and the Final Agreement, the parties agree to discuss the extent to which the tribunal meets the requirements of these provisions and the expectations of the parties.

#### PART 8: EXPROPRIATION

23.8.1 Any person or authorized representative of any person, who has power of expropriation under federal or territorial legislation ("expropriating authority"), may exercise that power of expropriation in accordance with laws of general application as qualified by this Agreement.

23.8.2 Nothing in this Part shall be construed to give the Territorial Government more extensive powers of expropriation than are given to the legislatures of the Provinces.

23.8.3 Any expropriation shall be approved by a specific order of the Governor-in-Council.

23.8.4 Any expropriation legislation coming into force after the date of ratification of the Final Agreement shall, insofar as it applies to Inuit Settlement Lands, provide for the following minimum procedures:

- (a) notice of intention to expropriate served on the DIO;
- (b) an opportunity for the DIO to object to the expropriation on the basis that the expropriating authority has not complied with the expropriation legislation, and an opportunity to be heard on that objection;
- (c) the determination of compensation by negotiation and mediation and, failing that, by reference to an arbitral body referred to in Section 23.8.8.

23.8.5 Where the expropriating authority acquires an estate in fee simple, those lands shall no longer be Inuit Settlement Lands. Lands acquired as compensation for expropriation shall be Inuit Settlement Lands. Where lands which have been expropriated are no longer required, the DIO shall have the right of first refusal to re-acquire those lands as Inuit Settlement Lands. If the parties are unable to agree on a price, the matter shall be referred to the arbitral body established pursuant to Section 23.8.8.

23.8.6 Where Inuit Settlement Lands are expropriated, Government shall, if reasonably possible, offer compensation in the form of alternate lands of equivalent utility and value, or in combination of lands and money.

23.8.7 The DIO shall not be required to take compensation in the form of alternate lands.

23.8.8 Where the DIO and the expropriating authority continue to disagree on compensation, and mediation, if provided for, fails, the final determination of any compensation payable shall be by arbitration:

- (a) as set out in the Arbitration Provisions, other than for expropriation under the National Energy Board Act; or
- (b) for expropriation under the National Energy Board Act, by an arbitration committee appointed under the Act that shall include at least one nominee of the DIO.

The Minister in establishing the arbitration committee shall choose members who have special knowledge of, and experience related to, the criteria set out in Section 23.7.3.

23.8.9 In determining the amount of compensation payable to the DIO the arbitral body shall be governed by Section 23.7.3.

23.8.10 Where an expropriating authority would have a power of expropriation of Inuit Settlement Lands, or an interest therein under Section 23.8.1, that power may not be executed if:

- (a) an amount equal to 12% of those lands or of an interest therein has already been expropriated; or

(b) the power is to be exercised in a land use region and an amount equal to 12% of these lands or of an interest therein has already been expropriated.

23.8.11 In calculating the areas under Section 23.8.10, no account shall be taken of those situations in which the DIO accepted alternative lands pursuant to Section 23.8.6.

23.8.12 Where Government has a right under Section 23.8.1, as qualified by this Article, to expropriate Inuit Settlement Lands which it requires for its public transportation purposes, Government need not pay compensation for the lands taken, except for improvements, up to an amount not exceeding five percent (5%) of each block of Inuit Settlement Lands initially registered under a separate title, or two percent (2%) of Inuit Settlement Lands in any land use region identified in Schedule 19-2 of the Identification of Inuit Settlement Lands Provisions. Where lands taken under this section are no longer required for the purpose for which they were taken, they shall revert to the DIO at no cost.

23.8.13 In calculating the areas under Section 23.8.10, lands taken pursuant to Section 23.8.12 shall be taken into account.

23.8.14 Notwithstanding Section 23.8.3, an expropriation of Inuit Settlement Lands within municipal boundaries for municipal purposes must be approved by a specific order of the Commissioner-in-Executive Council. Inuit Settlement Lands expropriated for municipal purposes

shall be taken into account in calculating areas under Sections 23.8.10 and 23.8.12.

#### PART 9: APPLICATION AND SAVING

##### Water

23.9.1 Where an operator working on Inuit Settlement Lands has obtained from the Nunavut Water Board a right to use water, the operator shall not be required to obtain the consent of the DIO to use that water, but the use may be subject to the payment of compensation as provided for in Sections 21.3.1 to 21.3.3 in the Inuit Water Rights Provisions, and existing Inuit water uses will take priority over the operator's requirements for water in Inuit Settlement Lands.

23.9.2 For greater certainty, an operator who has obtained a water right may still be required to obtain a right of way agreement and pay compensation for that right of way.

##### Management

23.9.3 For greater certainty, any person exercising access rights referred to under this Article, except rights referred to under Part 3 and Sections 23.4.9 to 23.4.11, shall, where required, acquire the appropriate authorization as required under the Development Impact Provisions and the Water Management Provisions prior to the exercise of those rights.

23.9.4 This Article has been negotiated by TFN on the assumption that the Development Impact Provisions will

be approved by Cabinet. In the event they are not approved, the parties agree to re-open negotiations on this Article at the request of TFN.

Other

23.9.5 For greater certainty, in the event of a conflict between this Article and laws of general application, this Article shall prevail.

23.9.6 No person may acquire by prescription an estate or interest in Inuit Settlement Lands.

23.9.7 Persons exercising rights under this Article have no right of action against the DIO for alleged loss or damage arising therefrom.

23.9.8 Where in any case an Inuk is a member of the public within the meaning of this Article, these provisions shall not prejudice any right that he or she may enjoy as an Inuk.

23.9.9 This Article is without prejudice to the Inuit legal position that all third party interests in the Nunavut Settlement Area were created illegally. This clause will be deleted upon conclusion of the Final Agreement.

SCHEDULE 23-1

GOVERNMENT ACTIVITIES NOT SUBJECT TO SECTION 23.4.4

1. On-site inspection activities.
2. Enforcement of laws.
3. Activities not related to construction.

ARTICLE 24: REAL PROPERTY TAXATION

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## ARTICLE 24: REAL PROPERTY TAXATION

### PART 1: DEFINITION

24.1.1 In this Article, "real property taxation" means any tax, levy, charge or other assessment against lands imposed for local government services or improvements including for schools and water.

### PART 2: GENERAL

24.2.1 Subject to this Article and the Final Agreement, no federal, territorial, provincial or municipal charge, levy or tax of any kind whatsoever shall be assessable or payable on the value or assessed value of Inuit Settlement Lands and, without limiting the generality of the foregoing, no capital, wealth, realty, school, water or business tax shall be assessable or payable on the value or assessed value of Inuit Settlement Lands.

24.2.2 Inuit Settlement Lands within municipal boundaries that

(a) have improvements, or

(b) do not have improvements, and lie within a planned and approved subdivision and are available for development,

may be subject to real property taxation under laws of general application.

24.2.3 Inuit Settlement Lands outside municipalities on which improvements have been made shall be subject to real property taxation under laws of general application.

Notwithstanding, where an improvement has been constructed, and an area of land for that improvement has not been demised, the assessor may assign an area no greater than four times the total ground area of the improvements.

24.2.4 For the purpose of Sections 24.2.2 and 24.2.3, improvements do not include:

- (a) improvements which result from government or public activity;
- (b) outpost camps;
- (c) any non-commercial structure associated with wildlife harvesting, including cabins, camps, tent frames, traps, caches, and weirs; or
- (d) any non-commercial structure associated with any other traditional activity.

24.2.5 Inuit Settlement Lands shall not be subject to charge, pledge, mortgage, attachment, levy, seizure, distress or execution, in respect of real property taxation, provided that alternative mechanisms are identified in the Final Agreement for the collection of any tax arrears on Inuit Settlement Lands.

24.2.6 Nothing in this Article, or in laws of general application, shall preclude a Designated Inuit Organization (DIO) and a municipal corporation from entering into a fee-for-services agreement to govern the supply of local government services to Inuit Settlement Lands.

24.2.7 No federal, territorial, provincial or municipal charge, levy or tax shall be payable in respect of the transfer to or receipt by a DIO of lands pursuant to Section 22.2.1 of the Vesting, Registration, Alienation, and Boundaries Provisions. Any application of this section to subsequent transfers will be set out in the Final Agreement.



WS

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ECONOMIC



## ARTICLE 25: INUIT PUBLIC SECTOR EMPLOYMENT

### PART 1: DEFINITIONS

#### 25.1.1 In this Article:

"CHRC" means the Canadian Human Rights Commission;

"government employment" includes

- (a) positions in the federal Public Service for which Treasury Board is the employer,
- (b) positions in the Territorial Public Service for which the Commissioner is the employer and positions for which municipal corporations and the NWT Housing Corporation are the employer;

"government organization" means a department or similar body within Government;

"in-service training" means training provided to government employees, and employees of the municipal corporations and the Northwest Territories Housing Corporation;

"Inuit employment plan" means a plan designed to meet the objective of these provisions in accord with the process set out in Part 4;

"pre-employment training" means training provided to persons not employed by Government in anticipation of government employment;

"representative level" means a level of Inuit employment within Government in the Nunavut Settlement Area reflecting the ratio of Inuit to the total population; this definition will apply within all levels and in all occupational groups;

"under-representation" means a degree of representation of Inuit, within a labour force employed in the Nunavut Settlement Area, not equal to the presence of Inuit in the resident population of the Nunavut Settlement Area.

#### **PART 2: OBJECTIVE**

25.2.1 Government and the Tungavik Federation of Nunavut (TFN) agree to the objective of increasing Inuit participation in government employment in the Nunavut Settlement Area to a representative level. The parties recognize that the achievement of this objective will require initiatives by Inuit and by Government.

25.2.2 In pursuit of this objective, Government and the Designated Inuit Organization (DIO) shall cooperate in the development and implementation of employment and training as set out in this Agreement.

#### **PART 3: INUIT LABOUR FORCE ANALYSIS**

25.3.1 As the basis for development of the initiatives contemplated in these provisions, Government shall, with the participation of the DIO, undertake a detailed analysis of the labour force of the Nunavut Settlement Area to determine the availability, interest and level of preparedness of Inuit for government employment;

this data will be maintained and updated on an on-going basis.

25.3.2 The purpose of the analysis in Section 25.3.1 is to assess the existing skill level and degree of formal qualification among the Inuit labour force and to assist in formulating Inuit employment plans and pre-employment training.

25.3.3 It is understood that the analysis in Section 25.3.1 will incorporate and build upon existing data wherever possible.

25.3.4 It is agreed that in no event shall the preparation of the analysis in Section 25.3.1 delay the implementation of Inuit employment plans and pre-employment training.

#### **PART 4: INUIT EMPLOYMENT PLANS**

25.4.1 Within timeframes established in the Final Agreement, each government organization operating in the Nunavut Settlement Area shall prepare an Inuit employment plan to increase the employment of qualified Inuit to a representative level.

25.4.2 An Inuit employment plan shall include the following:

- (a) an analysis to determine the level of representation of Inuit in all levels and in all occupational groups in the government organization within the Nunavut Settlement Area, and identification of any under-representation of Inuit;

- (b) a phased approach, with reasonable short and medium term goals, in the form of numerical targets and timetables for employment of qualified Inuit in all levels and occupational groups where under-representation has been identified; such goals to take into account the number of Inuit who are qualified or who would likely become qualified, projected operational requirements, and projected attrition rates;
- (c) an analysis of personnel systems, policies practices and procedures in the organization to identify those which potentially impede the recruitment, promotion, or other employment opportunities of Inuit;
- (d) measures consistent with the merit principle designed to increase the recruitment and promotion of Inuit, such as
  - (i) measures designed to remove systemic barriers including but not limited to
    - removal of artificially inflated education requirements,
    - removal of experience requirements not based on essential consideration of proficiency and skill,
    - elimination of cultural biases in testing procedures,

- (ii) intensive recruitment programs, including the distribution of competition posters throughout the Nunavut Settlement Area, with posters in Inuktitut as well as Canada's official languages as required,
- (iii) inclusion in appropriate job descriptions of requirements for an understanding of the social and cultural milieu of the Nunavut Settlement Area, including but not limited to
  - knowledge of Inuit culture, society and economy,
  - community awareness,
  - fluency in Inuktitut,
  - knowledge of environmental characteristics of the Nunavut Settlement Area,
  - northern experience,
- (iv) Inuit participation in selection panels and boards or, where such participation is impractical, advice to such panels and boards,
- (v) provision of counselling services with particular attention to solving problems associated with accessibility to such services,

- (vi) provision of in-service education assignment and upgrading programs adequate to meet employment goals,
- (vii) promotion of apprenticeship and other on-the-job training programs,
- (viii) recruitment and appointment of Inuit to positions which have been specifically designated for training purposes,
- (ix) use of measures which are found to be successful in achieving similar objectives in other initiatives undertaken by Government, and
- (x) other measures which may be identified and included in these provisions by agreement of the parties prior to a Final Agreement; and

(e) identification of a senior official to monitor the plan.

25.4.4 Notwithstanding the overall objectives of this Article, it is understood that some organizations may employ so few persons in the Nunavut Settlement Area that strict application of the above measures may not be practicable.

#### PART 5: PRE-EMPLOYMENT TRAINING

25.5.1 The parties recognize that the plans outlined in Part 25.4 will require special initiatives to provide some

Inuit with skills to qualify for government employment. It is agreed that Government and the DIO shall develop and implement pre-employment training plans.

25.5.2 To the extent possible, the plans referred to in Section 25.5.1 shall be designed to meet the special needs of Inuit by various means, including:

- (a) instruction in Inuktitut;
- (b) training within the Nunavut Settlement Area;
- (c) distribution of training sites among communities, it being understood that circumstances may require that training take place in central locations within the Nunavut Settlement Area or in other locations outside the Area;
- (d) the taking into account of Inuit culture and lifestyle.

#### **PART 6: SUPPORT SYSTEMS**

25.6.1 Recognizing that active participation of Inuit in the employment and training programs will be required in order to meet the objective set out in Part 2, the DIO shall, to the extent possible, undertake, with assistance from Government, to play a primary role in the establishment and maintenance of a support system to enhance the potential for success of the measures undertaken pursuant to these provisions.

#### **PART 7: REVIEW, MONITORING AND COMPLIANCE**

25.7.1 The parties acknowledge the desirability of the CHRC or another appropriate body being assigned a role in the review and completion of an Inuit employment plan and other measures, and in the monitoring and compliance of such plans and measures. However, the parties and the CHRC have not been able to agree on such a role for it. The parties agree to negotiate prior to the Final Agreement such a role for either the CHRC or another appropriate body. The agreement to negotiate is without prejudice to the positions of the parties as to the nature and extent of such role.

#### PART 8: OTHER MATTERS

##### Armed Forces

25.8.1 Although uniformed members of the Armed Forces are excluded from the broad application of these provisions, it is understood that, with respect to this category of government employment, current policies of increasing the recruitment, training and retention of Inuit will continue, but will not necessarily reflect representative levels of the population in the Nunavut Settlement Area.

##### RCMP

25.8.2 The parties agree that Inuit employment in the Royal Canadian Mounted Police will be addressed during Final Agreement negotiations.

##### Employment Equity Act

25.8.3 The parties agree to examine, in negotiations towards a Final Agreement, how best to improve the application of the federal Employment Equity Act to the Nunavut Settlement Area.

#### Employment in Yellowknife

25.8.4 In addition to employment in the Nunavut Settlement Area, an Inuit employment plan shall include provisions intended to provide reasonable progress towards the objective of eliminating under-representation within the middle and senior levels of management employed in Yellowknife by government organizations. For the purpose of this Section, under-representation means a degree of representation of Inuit not equal to the presence of Inuit in the resident population of the entire geographic area under the jurisdiction of the Territorial Government. This section shall apply only so long as a territorial government having jurisdiction over the Nunavut Settlement Area does not have its capital located in the Nunavut Settlement Area.

#### **PART 9: SAVING**

25.9.1 Notwithstanding any other provisions in this Article, Inuit shall continue to be eligible to benefit, on as favourable a basis as any other aboriginal people, from any special employment program, affirmative action program, equal opportunity program or similar program that may exist, from time to time, for the purpose of increasing or otherwise promoting the employment of aboriginal people within or by Government.



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## ARTICLE 26: GOVERNMENT CONTRACTS

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ARTICLE 26: GOVERNMENT CONTRACTS

PART 1: DEFINITIONS

26.1.1 In this Article:

"Government" means both the "Government of Canada" and the "Territorial Government" as defined herein;

"government contract" means a contract between Government and a party other than Government, or another Government, for procurement of goods or services, and includes

- (a) contracts for the supply of goods,
- (b) construction contracts,
- (c) contracts for the supply of services, and
- (d) leases,

but does not include "government employment" as defined in the Inuit Public Sector Employment Provisions;

"Government of Canada" means all federal departments and departmental corporations listed in Schedules I and II, and parent Crown Corporations listed in Schedule III, Part I of the Financial Administration Act RSC 1985, Chapter F-11;

"Inuit firm" means an entity which complies with the legal requirements to carry on business in the Nunavut Settlement Area, and which is:

(a) a limited company with at least 51% of the company's voting shares beneficially owned by Inuit;

(b) a cooperative controlled by Inuit; or

(c) an Inuk sole proprietorship or partnership;

"invite" means to call publicly for bids;

"representative level of employment" means a level of employment in the Nunavut Settlement Area that reflects the ratio of Inuit to the total population of the Nunavut Settlement Area;

"solicit" means to request bids from a limited number of businesses based on some form of prequalification;

"Territorial Government" means the territorial government having jurisdiction over the Nunavut Settlement Area, including all territorial government departments and all public agencies defined by the Financial Administration Act, S.N.W.T. 1987 (1), C.16, Part IX, and Schedules A, B, and C, but excluding the Northwest Territories Power Corporation.

## PART 2: OBJECTIVE

26.2.1 Government policies and directives, which have the effect of determining the manner in which goods and services are acquired by Government under contractual arrangements with firms and individuals in the private sector, are an important consideration in the

development of strategies in support of the growth, diversification and stabilization of the economy of northern Canada, and the Nunavut Settlement Area in particular. Consequently, Government agrees to provide reasonable support and assistance to Inuit firms in accordance with this Article to enable them to compete for government contracts.

### **PART 3: PROCUREMENT POLICIES**

#### **Development, Implementation, and Maintenance of Government of Canada Policies**

26.3.1 Consistent with this Article, the Government of Canada shall develop, implement or maintain procurement policies respecting Inuit firms for all Government of Canada contracts required in support of its activities in the Nunavut Settlement Area.

26.3.2 The Government of Canada shall develop or maintain its procurement policies in close consultation with the Designated Inuit Organization (DIO), and shall implement the policies through legislative, regulatory or administrative measures.

26.3.3 The measures referred to in Section 26.3.2 shall be binding on the Government of Canada, and shall be given effect:

(a) in all cases, no later than one year following the date of the ratification of the Final Agreement; and

(b) with respect to survey contracts, prior to the award of survey contracts arising from the Vesting, Registration, Alienation, and Boundaries Provisions; during development of implementation plans, the parties will consider training requirements for implementation of provisions relating to survey contracts.

#### Territorial Government Policies

26.3.4 Subject to Section 26.9.2, the Territorial Government shall maintain preferential procurement policies, procedures and approaches consistent with this Article for all Territorial Government contracts required in support of Territorial Government activities in the Nunavut Settlement Area. The Territorial Government will consult with the DIO when developing further modifications to its preferential policies, procedures and approaches in order that the provisions of this Article may be met.

#### Adaptability Over Time

26.3.5 Procurement policies and implementing measures shall be carried out in a manner that responds to the developing nature of the Nunavut economy and labour force. In particular, the policies shall take into account the increased ability, over time, of Inuit firms to compete for and to successfully complete Government contracts.

#### Policy Objectives

26.3.6 Procurement policies and implementing measures shall reflect, to the extent possible, the following objectives:

- (a) increased participation by Inuit firms in business opportunities in the Nunavut economy;
- (b) improved capacity of Inuit firms to compete for Government contracts; and
- (c) employment of Inuit at a representative level in the Nunavut work force.

#### Consultation

26.3.7 To support the objectives set out in Section 26.3.6, Government shall develop and maintain policies and programmes in close consultation with the DIO which are designed to achieve the following objectives:

- (a) increased access by Inuit to on-the-job training, apprenticeship, skill development, upgrading, and other job related programmes; and
- (b) greater opportunities for Inuit to receive training and experience to successfully create, operate and manage Northern businesses.

#### **PART 4: BID INVITATION**

26.4.1 In cooperation with the DIO, Government shall assist Inuit firms to become familiar with the bidding and contracting procedures of Government, and encourage

Inuit firms to bid for government contracts in the Nunavut Settlement Area.

26.4.2 In inviting bids on government contracts in the Nunavut Settlement Area, Government undertakes to provide all reasonable opportunities to Inuit firms to submit competitive bids. Government shall, where practicable and consistent with sound procurement management, take the following measures:

- (a) set the date, location, and terms and conditions for bidding so that Inuit firms may readily bid;
- (b) invite bids by commodity groupings to permit smaller and more specialized firms to bid;
- (c) permit bids for goods and services for a specified portion of a larger contract package to permit smaller and more specialized firms to bid;
- (d) design construction contracts in a way so as to increase the opportunity for smaller and more specialized firms to bid; and
- (e) avoid artificially inflated employment skills requirements not essential to the fulfilment of the contract.

26.4.3 Where Government intends to invite bids for government contracts to be performed in the Nunavut Settlement Area, Government shall take all reasonable measures to inform Inuit firms of such bids, and provide Inuit firms with a fair and reasonable opportunity to submit bids.

**PART 5: BID SOLICITATION**

26.5.1 Where Government solicits bids for government contracts to be performed in the Nunavut Settlement Area, Government shall solicit qualified Inuit firms to bid.

26.5.2 Where an Inuit firm has previously been awarded a government contract, and has successfully carried out the contract, Government shall solicit that Inuit firm to bid for contracts of a similar nature.

26.5.3 In the absence of competitive bidding for government contracts, qualified Inuit firms will be given fair consideration.

**PART 6: BID CRITERIA**

26.6.1 Whenever practicable, and consistent with sound procurement management, and subject to Canada's international obligations, all of the following criteria, or as many as may be appropriate with respect to any particular contract, shall be included in the bid criteria established by the Government of Canada for the awarding of its government contracts in the Nunavut Settlement Area:

(a) the existence of head offices, administrative offices or other facilities in the Nunavut Settlement Area;

(b) the employment of Inuit labour, engagement of Inuit professional services, or use of Inuit suppliers in carrying out the contracts; or

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(c) the undertaking of commitments, under the contract, with respect to on-the-job training or skills development for Inuit.

26.6.2 Whenever practicable and consistent with sound procurement management, and subject to Canada's international obligations, all of the following criteria, or as many as may be appropriate with respect to any particular contract, shall be included in the bid criteria established by the Territorial Government for the awarding of its government contracts in the Nunavut Settlement Area:

- (a) the proximity of head offices, administrative offices or other facilities to the area where the contract will be carried out;
- (b) the employment of Inuit labour, engagement of Inuit professional services, or use of Inuit suppliers in carrying out the contract; or
- (c) the undertaking of commitments, under the contract, with respect to on-the-job training or skills development for Inuit.

#### PART 7: LIST OF INUIT FIRMS

26.7.1 The DIO shall prepare and maintain a comprehensive list of Inuit firms, together with information on the goods and services which they would be in a position to furnish in relation to government contracts. This list shall be considered by Government in meeting its obligations under this Article.

**PART 8: EVALUATION AND MONITORING**

26.8.1 Government, in cooperation with the DIO, shall take the necessary measures to monitor and periodically evaluate the implementation of this Article.

**PART 9: IMPLEMENTATION**

26.9.1 The objectives of this Article shall be achieved through the allocation or re-allocation of government expenditures without imposing additional financial obligations on Government.

26.9.2 The Territorial Government will carry out the terms of this Article through the application of Territorial Government preferential contracting policies, procedures and approaches intended to maximize local, regional and northern employment and business opportunities.

26.9.3 Government and the DIO shall conduct a review of the effect of this Article within 20 years of its implementation. If TFN and the Government of Canada or the Territorial Government, as the case may be, agree after the review that the objectives of this Article have been met, the obligations under this Article of the Government of Canada or the Territorial Government, as the case may be, shall cease within one year of the completion of the review. If the obligations of the Government of Canada or the Territorial Government under this Article remain in effect after the initial review, the parties shall review the requirement to continue such provisions every five years or at such other times as they may agree.



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ARTICLE 27: RESOURCE ROYALTY SHARING

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## ARTICLE 27: RESOURCE ROYALTY SHARING

### PART 1: DEFINITIONS

#### 27.1.1 In this Article:

"gas" means natural gas and includes all substances, other than oil, that are produced in association with natural gas;

"income" shall be defined prior to the Final Agreement; any definition shall take into account the high cost of living in the Nunavut Settlement Area and the need for a workable statistical base;

"oil" means crude oil regardless of gravity, produced at a well head in liquid form and any other hydrocarbons except coal and gas and, without limiting the generality of the foregoing, hydrocarbons that may be extracted or recovered from deposits of oil sand, bitumen, bituminous sand, oil shale, or from any other types of deposits on the surface or subsurface, or the seabed or its subsoil;

"petroleum" means "oil" and "gas";

"resources" means coal, petroleum, precious and base metals and other naturally occurring substances that can be mined, but does not include the following mineral and naturally occurring substances: construction stone, sand and gravel, limestone, marble, gypsum, shale, clay, volcanic ash, earth, soil and diatomaceous earth, ochre, marl, peat, soapstone and carving stone;



"royalty" means any share of production whether in money or kind paid or payable to Government as owner in respect of a resource produced by a person from Crown lands in or under the Nunavut Settlement Area, but does not include:

- (a) any payment for a service, the creation of special purpose funds, the issuance of the right or interest or the granting of an approval or authorization;
- (b) any payment required regardless of ownership of the resource; or
- (c) any payment for incentives.

#### **PART 2: INUIT RIGHT TO ROYALTY**

27.2.1 Inuit have the right, in each and every calendar year, to be paid an amount equal to:

- (a) fifty percent (50%) of the first two million dollars (\$2,000,000) of resource royalty received by Government; and
- (b) five percent (5%) of any additional resource royalty received by Government.

#### **PART 3: PAYMENT OF ROYALTY**

27.3.1 Government shall pay to the Nunavut Trust the amount payable under 27.2.1.

27.3.2 The method of payment and other matters required to implement this Article shall be negotiated prior to Final Agreement.

#### **PART 4: CONSULTATION**

27.4.1 Government shall consult with the Designated Inuit Organization (DIO) on any proposal specifically to alter by legislation the resource royalty payable to Government. Where Government consults outside of Government on any proposed changes to the fiscal regime which will change the resource royalty regime, it shall also consult with a DIO.

#### **PART 5: CAPPING**

27.5.1 Government may limit the amount to be paid pursuant to 27.2.1 in any one year to the amount which, if distributed equally to all Inuit, would result in an Inuit average per capita income equal to the Canadian average per capita income.

#### **PART 6: AREA OF APPLICATION**

27.6.1 This Article applies to the Nunavut Settlement Area and the area identified in the Marine Boundary - East Baffin Coast Provisions.



ARTICLE 28: INUIT IMPACT AND BENEFIT AGREEMENTS

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**ARTICLE 28: INUIT IMPACT AND BENEFIT AGREEMENTS**

**PART 1: DEFINITIONS**

**28.1.1 In this Article:**

"capital costs" shall consist of expenditures for designing, procuring, constructing and installing all buildings, housing, machinery and equipment and infrastructure associated with a project, including any such costs incurred outside of the Nunavut Settlement Area in relation to the project; but shall not include financing costs;

"Crown corporation" means those Crown corporations that are not subject to the Government Contract Provisions of the Agreement;

"infrastructure" shall be considered as any transportation facilities directly in support of a project, such as a marine port, airport, road, railway, pipeline or power transmission line;

"Major Development Project" means any Crown corporation or private sector project that

- (a) is a water power generation or water exploitation project in the Nunavut Settlement Area, or
- (b) is a project involving development or exploitation of non-renewable resources wholly or partly under Inuit Settlement Lands,

and either entails, within the Nunavut Settlement Area during any five-year period, more than 200 person years of employment, or entails capital costs in excess of thirty-five million dollars (\$35,000,000), in constant 1986 dollars, including, where Government is the proponent for a portion of a development project or directly-related infrastructure, the capital costs and employment projections for the government portion of the project;

"Minister" means the federal or territorial Minister having the primary responsibility over the project;

"parties" means parties to an Inuit Impact and Benefit Agreement or negotiations leading thereto;

"resources" has the same meaning as in the Resource Royalty Sharing Provisions.

#### **PART 2: OBLIGATION TO FINALIZE**

28.2.1 No Major Development Project may commence until an Inuit Impact and Benefit Agreement (IIBA) is finalized in accordance with this Article.

#### **PART 3: PARAMETERS FOR NEGOTIATION AND ARBITRATION**

28.3.1 An IIBA may include any matter connected with the Major Development Project that could have a detrimental impact on Inuit or that could reasonably confer a benefit on Inuit, on a Nunavut-wide, regional or local basis. Without limiting the generality of the foregoing, the matters identified by way of Schedule 28-1 shall be considered appropriate for negotiation

and inclusion within an IIBA.

28.3.2 An IIBA shall be consistent with the terms and conditions of project approval, including those terms and conditions established pursuant to any ecosystemic and socio-economic impact review.

28.3.4 Negotiation and arbitration of IIBAs shall be guided by the following principles:

- (a) benefits shall be consistent with and promote Inuit cultural goals;
- (b) benefits shall contribute to achieving and maintaining a standard of living among Inuit equal to that of persons other than Inuit living and working in the Nunavut Settlement Area, and to Canadians in general;
- (c) benefits shall be related to the nature, scale and cost of the project as well as its direct and indirect impacts on Inuit;
- (d) benefits shall not place an excessive burden on the proponent and undermine the viability of the project; and
- (e) benefit agreements shall not prejudice the ability of other residents of the Nunavut Settlement Area to obtain benefits from major projects in the Nunavut Settlement Area.

### Commencement

28.4.1 At least 180 days prior to the proposed start-up date of any Major Development Project, the Designated Inuit Organization (DIO) and the proponent, unless they otherwise agree, will commence negotiations, in good faith, for the purpose of concluding an IIBA.

### Written Contract

28.4.2 Where the proponent and the DIO agree on the contents of an IIBA, the agreement shall be written in the form of a contract. Once agreement has been reached, the parties shall send a copy to the Minister.

## PART 5: VOLUNTARY ARBITRATION

28.5.1 At any time during the negotiations, the DIO and the proponent may submit any or all questions relating to the content of an IIBA to an arbitrator, in those cases where they can agree on the scope of the questions to be submitted and the identity of the arbitrator.

28.5.2 Where the parties reach agreement through voluntary arbitration, the agreement shall be written in the form of a contract and a copy sent to the Minister.

## PART 6: COMPULSORY ARBITRATION

### Application to Minister

28.6.1 Where, after 60 days of negotiation, full agreement has not been reached, and where the DIO and the proponent

are not engaged in voluntary arbitration, either party may apply to the Minister for the appointment of an arbitrator. The scope of the arbitration shall include the full range of benefits possible in an IIBA, unless the parties agree the range should be restricted.

Obligation to Negotiate in Good Faith

28.6.2 In the event that a proponent or the DIO consider that the other party is not negotiating in good faith during the initial 60 days negotiation period referred to in Section 28.6.1, that party may immediately apply to the Minister for the appointment of an arbitrator, who shall, within seven days of appointment, determine the validity of the allegation of bad faith. If the arbitrator upholds the allegation, the arbitrator shall proceed immediately in accordance with Section 28.6.4.

Appointment of Arbitrator

28.6.3 Within 15 days of an application to the Minister for the appointment of an arbitrator, an arbitrator shall be appointed with the approval of the parties negotiating the IIBA. If the parties cannot agree on the appointment of an arbitrator, the arbitrator shall be appointed from a standing list of arbitrators which has been approved by the DIO and by those industry organizations determined by Government to be relevant.

Decision of Arbitrator

28.6.4 An arbitrator shall, within 60 days of his or her appointment, or within 60 days of upholding an allegation of bad faith, ascertain the views and

proposals of both the DIO and the proponent and shall submit a decision in the form of a contract to the parties, and the Minister shall be sent a copy of the arbitrator's decision.

28.6.5 Costs incurred in arbitration shall be borne equally by the parties, unless otherwise determined by the arbitrator. Costs of the DIO incurred in arbitration dealing with compensation pursuant to Section 28.11.4 shall be borne by the proponent of the Major Development Project, unless otherwise determined by the arbitrator.

#### PART 7: EXTENSIONS OF TIME

28.7.1 The parties negotiating an IIBA may agree to waive any of the time periods referred to in Parts 4 and 6, and the arbitrator may apply to the Minister for an extension of the time provided for in Section 28.6.4.

#### PART 8: COMING INTO EFFECT

28.8.1 An IIBA shall take effect 30 days after receipt by the Minister unless the Minister has determined within that time that a negotiated IIBA pursuant to Part 4 exceeds the parameters of this Article, or that, with respect to an IIBA pursuant to Parts 5 or 6, an arbitrator has exceeded his or her jurisdiction.

28.8.2 If, pursuant to Section 28.8.1, the Minister determines that the parties have exceeded the parameters of this Article, or that the arbitrator has exceeded his or her jurisdiction, the Minister shall provide written reasons to the parties and the arbitrator.

28.8.3 The parties with respect to a negotiated agreement, and the arbitrator with respect to an arbitrated decision, shall take into account the Minister's reasons and revise the IIBA as appropriate.

28.8.4 The parties with respect to a negotiated agreement, and the arbitrator with respect to an arbitrated decision, shall submit the revised IIBA to the Minister within seven days of receipt of the Minister's written reasons.

#### PART 9: ENFORCEMENT

28.9.1 An IIBA may be enforced by either party in accordance with the common law of contract. The parties may negotiate liquidated damages clauses for the eventuality of default and such a clause, however phrased, shall not be construed as constituting a penalty. In any deliberation as to the remedy of specific performance, due regard shall be given at all times to the desirability of protecting Inuit lifestyle and culture and providing Inuit with opportunities for economic advancement.

28.9.2 The negotiation and conclusion of an IIBA shall be without prejudice to the participation by the DIO, any other Inuit organization, and any Inuit in any hearings or other proceedings of the Nunavut Impact Review Board, the National Energy Board, or any other administrative agency, or to the enforcement or contesting of any decision or order of such agency.

#### PART 10: RENEgotiation

28.10.1 Except where otherwise agreed, an IIBA shall provide for its renegotiation.

#### PART 11: OTHER MATTERS

##### Agreement Not Required

28.11.1 The DIO and the proponent of a Major Development Project may agree that an IIBA is not required.

##### Military or National Emergency

28.11.2 In cases of military or national emergency, the Minister may allow commencement of a Major Development Project prior to the conclusion of an IIBA.

##### Early Project Start-up

28.11.3 If, once negotiations have begun on an IIBA, the proponent finds it necessary for the project to start sooner than the projected start-up date, the Minister may, if the project has received approval from the appropriate agencies, authorize the project to commence

(a) if the parties agree, or

(b) if the delay would jeopardize the project.

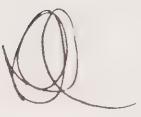
Where the Minister proposes to exercise this authority, he shall consult with the parties and, where one has been appointed, the arbitrator.

28.11.4 If, pursuant to Sections 28.11.2 and 28.11.3, a Major Development Project commences prior to an IIBA being concluded, the arbitrator shall ensure that benefits received by Inuit shall include compensation, which may be in the form of replacement benefits, for the benefits lost through the early commencement of the Major Development Project.

Other Government Requirements

28.11.5 Where an IIBA has been concluded which is at least equal to government requirements respecting the mitigation of impacts or provisions of benefits for native peoples, Government may accept the IIBA as sufficient to satisfy those requirements.

SCHEDULE 28-1



MATTERS CONSIDERED APPROPRIATE FOR INUIT BENEFITS

1. Inuit training at all levels.
2. Inuit preferential hiring.
3. Employment rotation reflecting Inuit needs and preferences.
4. Scholarships.
5. Labour relations.
6. Business opportunities for Inuit including:
  - (a) provision of seed capital;
  - (b) provision of expert advice;
  - (c) notification of business opportunities;
  - (d) preferential contracting practices.
7. Housing, accommodation and recreation.
8. Safety, health and hygiene.
9. Language of workplace.
10. Identification, protection and conservation of archaeological sites and specimens.

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SCHEDULE 28-1 (Continued)

11. Research and development.
12. Inuit access to facilities constructed for the project such as airfields and roads.
13. Particularly important Inuit environmental concerns and disruption of wildlife, including wildlife disruption compensation schemes.
14. Outpost camps.
15. Information flow and interpretation, including liaison between Inuit and proponent regarding project management and Inuit participation and concerns.
16. Relationship to prior and subsequent agreements.
17. Co-ordination with other developments.
18. Arbitration and amendment provisions.
19. Implementation and enforceability, including performance bonds and liquidated damages clauses.
20. Obligations of subcontractors.
21. Any other matters that the parties consider to be relevant to the needs of the project and Inuit.



ARTICLE 29: NATURAL RESOURCE DEVELOPMENT

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## ARTICLE 29: NATURAL RESOURCE DEVELOPMENT

### PART 1: DEFINITIONS

#### 29.1.1 In this Article:

"gas" means natural gas and includes all substances, other than oil, that are produced in association with natural gas;

"oil" means crude oil regardless of gravity, produced at a well head in liquid form and any other hydrocarbons except coal and gas and, without limiting the generality of the foregoing, hydrocarbons that may be extracted or recovered from deposits of oil sand, bitumen, bituminous sand, oil shale, or from any other types of deposits on the surface or subsurface, or the seabed or its subsoil;

"petroleum" means oil and gas;

"resources" means resources as defined in the Resource Royalty Sharing Provisions.

### PART 2: CONSULTATION

#### Opening of Lands for Petroleum Exploration

29.2.1 Prior to opening any lands in the Nunavut Settlement Area for petroleum exploration, Government shall notify the Designated Inuit Organization (DIO) and provide opportunity for it to present and to discuss its views with Government regarding the terms and conditions to be attached to such rights.



### Exercise of Petroleum Rights

29.2.2 Prior to the initial exercise of rights in respect of exploration, development or production of petroleum on Crown lands in the Nunavut Settlement Area, and in order to prepare a benefits plan for the approval of the appropriate regulatory authority, the proponent shall consult the DIO, and Government shall consult the DIO, in respect to those matters listed in Schedule 29-1.

### Other Resources

29.2.3 Prior to the initial exercise of rights in respect of development or production of resources other than petroleum on Crown lands in the Nunavut Settlement Area, the proponent shall consult the DIO in respect to those matters listed in Schedule 29-1.

### Nature of Consultation

29.2.4 The consultation provided for in this Part shall balance the needs of the DIO for information, opportunity for discussion among Inuit, and the needs of Government and the proponent for timely and cost-effective decisions.

### Existing Subsurface Rights

29.2.5 The obligations to consult under Sections 29.2.2 to 29.2.4 shall apply mutatis mutandis to operators whose subsurface rights are continued under Section 23.6.2 of the Entry and Access Provisions.

SCHEDULE 29-1

MATTERS CONSIDERED APPROPRIATE FOR CONSULTATION

1. Inuit training.
2. Inuit hiring.
3. Employment rotation.
4. Labour relations.
5. Business opportunities for Inuit.
6. Housing accommodations and recreation on project site.
7. Safety, health and hygiene.
8. Language of workplace.
9. Identification, protection and conservation of archaeological sites and specimens.
10. Research and development.
11. Inuit access to facilities constructed for the project such as airfields and roads.
12. Particularly important Inuit environmental concerns and disruption of wildlife.
13. Outpost camps.

SCHEDULE 29-1 (Continued)

14. Information flow, including liaison between Inuit and proponent regarding project management and Inuit participation and concerns.
15. Co-ordination with other developments.
16. Any other matters that the parties consider to be relevant to the needs of the project and Inuit.

ARTICLE 30: NORTHERN ENERGY ACCORD - INTERIM PROVISIONS

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## ARTICLE 30: NORTHERN ENERGY ACCORD - INTERIM PROVISIONS

### PART 1: GENERAL

30.1.1 The Territorial Government will include representatives of the Tungavik Federation of Nunavut (TFN) in the territorial government team to develop and implement a northern energy accord with the Government of Canada.

30.1.2 Any northern energy accord shall respect the provisions of this Agreement.



ARTICLE 31: WILDLIFE HARVESTING INCOME SUPPORT PROGRAM

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## ARTICLE 31: WILDLIFE HARVESTING INCOME SUPPORT PROGRAM

### PART 1: GENERAL

31.1.1 The Territorial Government undertakes to establish a working group with the participation of the Tungavik Federation of Nunavut (TFN) and the Government of Canada in order to determine, prior to the Final Agreement, the feasibility, parameters, costing and potential implementation structures of a Wildlife Harvesting Income Support Program for the Nunavut Settlement Area, outside the land claim process, financed with funds dedicated by the TFN and funds available from appropriate federal and appropriate restructured territorial programs.



FINANCIAL



ARTICLE 32: CAPITAL TRANSFER

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## ARTICLE 32: CAPITAL TRANSFER

### PART 1: PAYMENT OF CAPITAL TRANSFER

32.1.1 Subject to Sub-section 32.1.2(a), the Government of Canada shall make a capital transfer to the Nunavut Trust of five hundred and eighty million dollars (\$580,000,000) valued at the first quarter of 1989, broken down as follows:

- (a) three million dollars (\$3,000,000) by April 30, 1990, on the condition that this Agreement be duly ratified by that date;
- (b) one million dollars (\$1,000,000) upon completion of land identification in two land use regions referred to in Schedule 19-2 of the Identification of Inuit Settlement Lands Provisions;
- (c) one million dollars (\$1,000,000) upon completion of land identification in the four remaining land use regions;
- (d) the remaining monies, plus any amount not paid under sub-section (a), in accordance with a schedule of 15 payments over a period of 14 years.

32.1.2 The schedule referred to in Sub-section 32.1.1(d) will be negotiated prior to the Final Agreement and will be attached to the Final Agreement. The schedule shall be based on the following principles:

(a) the value of the first payment will be fifty-four million dollars (\$54,000,000) and such payment will be made upon the signing of the Final Agreement; this payment may be directed, at Tungavik Federation of Nunavut (TFN) request, to a Designated Inuit Organization (DIO) other than the Nunavut Trust; at the discretion of the Government of Canada, this payment may be in the form of an advance pending ratification by Parliament; in the event ratification does not occur within 12 months of the Final Agreement, the advance shall be returned to the Government of Canada without any interest or other charge;

(b) on each of the following 14 anniversaries of the first payment, payments will be such that

- (i) the second payment shall be sixty percent (60%) of the average of the total of the fourth to twelfth payments,
- (ii) the third payment shall be eighty percent (80%) of the average of the total of the fourth to twelfth payments, and
- (iii) the payments shall be phased out at decreasing levels over the last three years.

32.1.3 The capital transfer payments referred to in Section 32.1.1 shall be indexed to the earlier of the date of payment or the date of Final Agreement as follows:

(a) from the first quarter of 1989 to the third quarter of 1991, by the greater of

(i) the Final Domestic Demand Implicit Price Index (FDDIPI), and

(ii) four percent (4%) per annum, and

(b) from the third quarter of 1991, by FDDIPI.

32.1.4 The schedule of payments described in Section 32.1.2 shall be such that the present value, at the date of the Final Agreement, of the payments described in the schedule shall equal the value of the capital transfer payment described in Sub-section 32.1.1(d).

32.1.5 The present value referred to in Section 32.1.4 shall be calculated using the last appropriate Consolidated Revenue Fund Lending Rate available prior to conclusion of the Final Agreement.

32.1.6 The capital transfer payment in Section 32.1.1 includes the Government of Canada's funding obligations in respect of the Nunavut Social Development Council and of the Inuit Heritage Trust, pursuant to Section 36.4.1 of the Archaeology Provisions, but such payment shall in no way affect the eligibility of the Council or Heritage Trust to apply for and receive government funds available for similar institutions in the Nunavut Settlement Area and throughout Canada by way of government grants, core funding, or other such funding mechanisms.

32.1.7 The Final Agreement shall not include any obligations or undertakings by the Government of Canada or Territorial Government in respect of a Wildlife Harvesting Income Support Program.

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32.1.8 Any payment or portion of payment that would be payable to the Nunavut Trust under Sub-sections 32.1.1(a), (b) or (c) shall, at the direction of TFN, be paid to TFN or a DIO designated by TFN.

32.1.9 Any payment to which the Nunavut Trust is entitled under Section 32.1.1 shall, if the Trustees of the Trust so direct, be paid directly to any beneficiary of the Trust, provided the total amount paid to beneficiaries of the Trust shall not exceed fifty five million dollars (\$55,000,000) indexed pursuant to Section 32.1.3.

#### **PART 2: NEGOTIATION LOAN PAYMENT**

32.2.1 The Final Agreement shall describe the outstanding amount of negotiation loans of the Tungavik Federation of Nunavut (TFN) and establish a schedule of payments proportional to the stream of payments by the Government of Canada referred to in Sub-section 32.1.2(b). From the date of the Final Agreement, the interest on the loans shall be at six percent (6%) per annum calculated annually not in advance.

32.2.2 The Government of Canada may deduct any amounts due under Section 32.2.1 against payments referred to in Sub-section 32.1.2(b).

32.2.3 In all other respects, terms and conditions of the negotiation loans shall be unaffected.

#### **PART 3: LOANS AGAINST CAPITAL TRANSFER**

32.3.1 At any time after three years from the date of the ratification of the Final Agreement, the Nunavut Trust may request a loan from the Government of Canada against the then unpaid balance of the capital transfer.

32.3.2 If the Government of Canada agrees to consider the request, the Minister of Finance as representing Canada and the Nunavut Trust will negotiate the amount and terms and conditions of the loan.

32.3.3 The Minister of Finance is authorized to consider a request and to grant a loan, on terms and conditions as agreed, up to the amount requested, if the Minister of Finance is satisfied that:

- (a) the loan is intended for the social or economic development of Inuit;
- (b) in any year, the unpaid balance of the capital transfer payment is sufficient to cover the total of all outstanding loan repayments, interest and fees required of the Nunavut Trust;
- (c) the terms and conditions of the loan, including the amount of the loan, the timing and amount of repayments, and the interest rate,
  - (i) are consistent with government policies and practices for granting loans, and
  - (ii) enable the Minister to manage public disbursements and ensure fiscal constraint; and

(d) an amount to be paid is available for that purpose from the applicable Parliamentary appropriation.

32.3.4 A condition of any loan made under Section 32.3.2 shall be that the Nunavut Trust pay, at the time of the loan, an amount on any outstanding balance of negotiation loans described in Section 32.2.1 which will reduce the outstanding balance of those loans by the same proportion as the amount loaned under Section 32.3.2 bears to the unpaid balance of capital transfer payments in Sub-section 32.1.2(b). The amount so paid shall be credited to the last payments under the schedule described in Section 32.2.1.



## ARTICLE 33: GENERAL TAXATION

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ARTICLE 33: GENERAL TAXATION

PART 1: GENERAL RULES

33.1.1 There shall be no federal, territorial or municipal government tax or other similar charges exigible in respect of the payment to or receipt by the Nunavut Trust, or other recipients identified in Sections 32.1.8 and 32.1.9 of the Capital Transfer Provisions, of the following amounts paid by the Government of Canada pursuant to the Final Agreement:

- (a) any capital transfer referred to in the Capital Transfer Provisions; and
- (b) any loan against capital transfer payments described in the Capital Transfer Provisions.

33.1.2 Subject to Section 33.1.1, tax laws of general application shall apply to the Nunavut Trust, any other recipient of a portion of the capital transfer, and to the recipient of any capital or income from the Nunavut Trust.

33.1.3 Inuit Settlement Lands shall be deemed not to be reserves for the purposes of Section 87 of the Indian Act, RSC 1985, C.I-5.

PART 2: INCOME FROM INUIT SETTLEMENT LANDS AND DEPRECIABLE PROPERTY

33.2.1 All profits, rents, royalties and other revenues or gain derived from Inuit Settlement Lands shall be



taxable under laws of general application except as otherwise provided in the Final Agreement.

Acquisition Cost of Inuit Settlement Lands

33.2.2 The cost of acquisition to an Inuk or to a Designated Inuit Organization (DIO) of any real property acquired under this Agreement, other than depreciable property, transferred to it by the Government of Canada, shall, for the purposes of the Income Tax Act, be deemed to be an amount equal to the fair market value thereof at the earlier of:

- (a) the time at which title to such property is registered in the name of the Inuk or the DIO; or
- (b) any right or interest in such property is acquired by the Inuk or DIO.

Disposition of Inuit Settlement Lands

33.2.3 Where any real property acquired under this Agreement, other than depreciable property, is disposed of by a DIO (the "transferor"):

- (a) to an Inuk (the "transferee"), and such real property has not previously been disposed of by a DIO to another Inuk, or
- (b) within ten years of the transfer by the Government of Canada of such property to a DIO, from that DIO to another DIO (the "transferee"),

the real property shall, for the purpose of the Income Tax Act, be deemed to have been disposed of by the transferor for proceeds of disposition equal to the greater of the amount that would otherwise be the proceeds of disposition and the adjusted cost base to the transferor of the real property at that time, and to have been acquired by the transferee at a cost equal to the amount at which it was deemed to have been disposed.

#### Disposition of Depreciable Property

33.2.4 The rules of Sections 33.2.2 and 33.2.3 shall apply to depreciable property with such modifications as the circumstances require.



#### ARTICLE 34: THE NUNAVUT TRUST



## ARTICLE 34: THE NUNAVUT TRUST

### PART 1: GENERAL

34.1.1 Prior to the Final Agreement, the Tungavik Federation of Nunavut (TFN) shall cause to be established by trust deed a Nunavut Trust to receive the capital transfer payments referred to in the Capital Transfer Provisions and any amounts payable to it under the Resource Royalty Provisions, and may invest the same and distribute the income therefrom to the beneficiaries of the Trust for the general benefit of Inuit.

34.1.2 The Nunavut Trust shall be resident in Canada.

34.1.3 The Nunavut Trust shall be subject to control by its trustees, who shall be selected by regional Inuit organizations that are themselves controlled by boards of directors elected by all Inuit in their regions. The principal and any other beneficiaries of the Trust shall be similarly democratically controlled.

34.1.4 The trust deed establishing the Nunavut Trust shall provide that amendment of the trust deed must involve ratification by Inuit through an appropriately designed voting procedure.

34.1.5 The rule commonly known as the Rule against Perpetuities shall not apply to the Nunavut Trust.

34.1.6 The Nunavut Trust shall provide for the protection and enhancement of settlement assets based on sound management practices.

34.1.7 Subject to Section 34.1.5, the Nunavut Trust and other Inuit structures shall be subject to laws of general application including applicable tax laws.

#### PART 2: ACCESS TO INFORMATION

34.2.1 The following information shall be freely available to all Inuit:

- (a) the trust deed establishing and governing the Nunavut Trust;
- (b) the constituting documents of the principal beneficiary and any other beneficiaries of the Trust; and
- (c) annual reports detailing the activities and finances of the Trust, its principal beneficiary, and any other beneficiaries.

#### PART 3: STANDING

34.3.1 In addition to any relevant rights at common law or provided through legislation, all Inuit shall have standing in a court of competent jurisdiction to enforce the objects and other provisions of the trust deed and the constituting documents of the principal beneficiary and any other beneficiaries of the Trust.

SOCIAL AND CULTURAL



ARTICLE 35: SOCIAL PROVISIONS

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**ARTICLE 35: SOCIAL PROVISIONS**

**PART 1: GENERAL PRINCIPLES**

35.1.1 Without prejudice to any aboriginal rights to self-determination, and recognizing that Inuit culture and society is continuing to evolve as it adapts to external influences, Inuit have the right as set out in this Article to participate in the development of social and cultural policies, and in the design of social and cultural programs and services, including their method of delivery, within the Nunavut Settlement Area.

**PART 2: GOVERNMENT OBLIGATIONS**

35.2.1 Government obligations under Section 35.1.1 shall be fulfilled by Government:

- (a) providing Inuit with an opportunity to participate in the development of social and cultural policies, and in the design of social and cultural programs and services, including their method of delivery, in the Nunavut Settlement Area; and
- (b) endeavouring to reflect Inuit goals and objectives where it puts in place such social and cultural policies, programs and services in the Nunavut Settlement Area.

**PART 3: NUNAVUT SOCIAL DEVELOPMENT COUNCIL**

35.3.1 A Nunavut Social Development Council (the "Council") shall be established to promote the principles and

objectives in Section 35.2.1, notwithstanding that there may be other bodies established in this Agreement or outside it which also promote these principles and objectives.

35.3.2 The Council shall be incorporated to operate as a non-profit organization and its tax status shall be in accordance with laws of general application applicable from time to time. It shall be directed by a board of directors appointed by appropriate Designated Inuit Organizations (DIOs), and shall be accountable to Inuit in a manner to be defined in the Final Agreement.

35.3.3 The Council shall assist Inuit to meet their social and cultural development goals and objectives and shall encourage Government to design and implement social and cultural development policies and programs appropriate to Inuit. The Council may:

- (a) conduct research on social and cultural issues;
- (b) publish and distribute information on social and cultural issues to Inuit, governments and the public;
- (c) consult and work in collaboration with community, regional, territorial, federal and other bodies and agencies involved in social and cultural issues;
- (d) advise Inuit and governments on social and cultural policies, programs and services that relate to the Nunavut Settlement Area; and

(e) undertake other activities relating to social and cultural issues in the Nunavut Settlement Area.

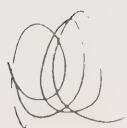
35.3.4 The Council shall prepare and submit an annual report on the state of Inuit culture and society in the Nunavut Settlement Area to the Leader of the Territorial Government for tabling in the Legislative Assembly, as well as to the Minister of Indian Affairs and Northern Development for tabling in the House of Commons.



ARTICLE 36: ARCHAEOLOGY

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## ARTICLE 36: ARCHAEOLOGY

### PART 1: DEFINITIONS AND INTERPRETATION

#### 36.1.1 As used in this Article:

"archaeological site" means a site or work within the Nunavut Settlement Area of archaeological, ethnographical or historical importance, interest or significance or a place where an archaeological specimen is found, and includes explorers' cairns;

"archaeological specimen" means an object or specimen found in an archaeological site of archaeological, ethnological or historical importance, interest or significance and includes explorers' documents;

"Designated Agency" means the agency to be nominated for the purpose of these provisions in the Final Agreement; and

"Trust" means the Inuit Heritage Trust established under Part 4.

#### 36.1.2 This Article shall apply to marine areas of the Nunavut Settlement Area.

### PART 2: GENERAL PRINCIPLES

#### 36.2.1 The archaeological record of the Inuit of Nunavut is a record of Inuit use and occupancy of lands and resources through time. The evidence associated with their use and occupancy represents a cultural, historical and ethnographic heritage of Inuit society

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and, as such, Government recognizes that Inuit have a special relationship with such evidence which shall be expressed in terms of special rights and responsibilities.

36.2.2 The parties recognize that the archaeological record of the Nunavut Settlement Area is of spiritual, cultural, religious and educational importance to Inuit. Accordingly, the identification, protection and conservation of archaeological sites and specimens and the interpretation of the archaeological record is of primary importance to Inuit and their involvement is both desirable and necessary.

36.2.3 Government responsibilities for the management and conservation of archaeological sites and specimens shall be balanced with Inuit responsibilities for the same.

36.2.4 Government recognizes the urgent need to establish facilities in the Nunavut Settlement Area for the conservation and management of a representative portion of the archaeological record. Government further acknowledges that it is desirable that the proportion of the Nunavut Settlement Area archaeological record finding a permanent home in the Nunavut Settlement Area increase over time.

36.2.5 In recognition of the spiritual, cultural and religious importance of certain areas in the Nunavut Settlement Area to Inuit, Government agrees that Inuit have special rights and interests in these areas as defined by this Article.

36.2.6 Inasmuch as not all matters related to archaeology can be dealt with definitively in this Agreement, the Final Agreement shall provide greater detail with respect to the following:

- (a) the identity of the appropriate Designated Agency referred to in this Article; it being understood that different federal and territorial government organizations may be identified as the Designated Agency for different purposes described in these provisions;
- (b) the new policies and regulations currently being developed by Government with respect to archaeology shall be developed in such a way as to be compatible with these provisions; and
- (c) negotiations leading to the Final Agreement shall address the following matters
  - (i) funding of Inuit involvement in archaeological programs in the Nunavut Settlement Area, and
  - (ii) the establishment of appropriate training programs for Inuit in all aspects of archaeology.

#### PART 3: INUIT PARTICIPATION

36.3.1 Inuit shall be invited to participate in developing a new policy for archaeology in the North being prepared by the Archaeological Survey of Canada, the Canadian Museum of Civilization and National Museums of Canada.



36.3.2 Inuit shall participate in developing the Territorial Government's proposed amendments to the federal Northwest Territories Archaeological Sites Regulations aimed at providing increased protection for archaeological sites.

36.3.3 Appropriate sanctions against unauthorized disturbance of archaeological sites and specimens and unauthorized dealing in archaeological specimens shall be contained in appropriate legislation.

36.3.4 The provisions of this Part shall be reviewed prior to the Final Agreement.

#### **PART 4: INUIT HERITAGE TRUST**

36.4.1 The Final Agreement shall provide for a Fund for the establishment of a non-profit Inuit Heritage Trust (the "Trust").

36.4.2 The Final Agreement shall provide that the Trust shall be administered by Trustees nominated by a Designated Inuit Organization (DIO), the said Trustees to have an appropriate balance of cultural awareness and technical expertise.

36.4.3 In addition to any other functions set out in the Final Agreement, it is intended that the Trust shall assume increasing responsibilities for supporting, encouraging and facilitating the conservation, maintenance, restoration and display of Nunavut archaeological sites and specimens.

36.4.4 The terms of the Trust shall ensure the safekeeping and safe use of property entrusted to it.

36.4.5 Government acknowledges that the Trust shall constitute an essential vehicle for the carrying out of archaeological work in the Nunavut Settlement Area. The parties further acknowledge that negotiations towards the Final Agreement shall address the needs and means of the Trust to fulfill its responsibilities.

36.4.6 The Designated Agency shall allow the Trust access to information in its possession regarding archaeological work in the Nunavut Settlement Area, subject to reasonable restrictions on access intended to safeguard the confidentiality of sensitive information.

#### PART 5: PERMIT SYSTEM

36.5.1 Government agrees that the legislation and policy referred to in Part 3 shall establish a permit system with respect to the protection, excavation and restoration, recording and reporting of archaeological sites.

36.5.2 Government further agrees that the legislation and policy referred to in Part 3 shall provide that a permit holder shall not survey, investigate, excavate or alter an archaeological site without the consent of the title holder to the land. Such consent shall not be unreasonably withheld.

36.5.3 Upon receipt of any application for a permit for archaeological activity, including investigation of archaeological sites, or the removal of archaeological

specimens the Designated Agency shall, except in cases of emergency, forward a copy of such application forthwith to the Trust.

36.5.4 Upon receipt of the copy, the Trust shall have a reasonable number of calendar days, as determined by the Designated Agency in consultation with the Trust, to object to the application in writing.

36.5.5 If the Designated Agency is in receipt of such written objections within the specified number of calendar days, it shall:

- (a) withhold the issuance of any permit;
- (b) investigate the objections; and
- (c) provide the Trust with a copy of the report prepared on the basis of the investigation.

36.5.6 Where the objections referred to in Section 36.5.5 are reasonably founded on:

- (a) inadequate efforts to secure Inuit participation and benefits or inadequate performance of commitments to provide such participation and benefits under permits issued at an earlier date, or
- (b) disturbance of a site of Inuit religious or spiritual significance, as such significance is defined by the Trust in consultation with the Designated Agency,

the Designated Agency shall reject the application for the permit.

36.5.7 The Designated Agency shall, upon reasonable request by the Trust, attach as a condition to the grant of a permit, a requirement that upon completion of each season's field work, the permit holder shall, to the extent practicable:

- (a) attend at a location identified by the Trust, in the community closest to the site to explain and discuss the work carried out; and
- (b) provide an opportunity for residents of the community to examine any specimen removed from the site.

36.5.8 Notwithstanding Section 36.5.6, where the application before the Designated Agency is associated with a proposed land use requiring a land use permit, the Designated Agency may, instead of rejecting the application, issue a permit with terms and conditions that adequately deal with the reasonably founded objections.

36.5.9 The legislation and policy referred to in Part 3 shall provide that every permit holder shall submit a report to the Designated Agency and the Trust. Upon reasonable request, the Agency shall provide the Trust with an Inuktitut summary of the report.

36.5.10 The Agency shall make available Inuktitut translations of its publications that are aimed at informing the

Canadian public about archaeology in the Nunavut Settlement Area.

36.5.11 Except where a permit specifically requires a permit holder to leave a specimen in situ for purposes of scientific or historic interest, all specimens collected by a permit holder shall be submitted to the Designated Agency at a place and time specified by the Agency.

#### **PART 6: OTHER MATTERS**

36.6.1 Where any agency of the Government intends to contract for carrying out of archaeological work in the Nunavut Settlement Area, the agency shall:

- (a) give preferential treatment to qualified Inuit contractors where the agency proposes to tender such contract; and
- (b) ensure that all contractors give preferential treatment to qualified Inuit.

36.6.2 Where an application is made for a land use permit in the Nunavut Settlement Area, and there are reasonable grounds to believe there could be sites of archaeological importance on the lands affected, no land use permit shall be issued without the written consent of the Designated Agency. Such consent shall not be unreasonably withheld.

36.6.3 Each land use permit referred to in Section 36.6.2 shall specify the plans and methods of archaeological site protection and restoration to be followed by the

permit holder, and any other conditions the Designated Agency may deem fit.

#### PART 7: TITLE IN SPECIMENS

36.7.1 The parties acknowledge that, while the possession and care of specimens is of greater practical import than legal title thereto, the question of title is of mutual concern and interest. Accordingly, while neither party is prepared to accept the position of the other on the issue of title at the date of the Agreement, it is agreed to explore the issue further in negotiations towards the Final Agreement.

#### PART 8: USE OF ARCHAEOLOGICAL SPECIMENS

36.8.1 The Designated Agency shall endeavour at all times to dispose of a maximum of specimens to institutions in the Nunavut Settlement Area such as the Trust.

36.8.2 Where the Trust requests possession of any specimens from any federal or territorial government agency, including the Canadian Museum of Civilization, and any territorial archaeological agency, such requests shall not be refused by the agency unless:

- (a) the Trust is unable to maintain the specimen without risk of damage or destruction;
- (b) the Trust is unable to provide access to the specimen commensurate with scientific or public interest;

- (c) the agency is unable to give up possession because of a term or condition of its original acquisition from a non-governmental source;
- (d) the Canadian Museum of Civilization, the Public Archives of Canada or a territorial government agency currently requires the specimen
  - (i) for its own active display or research, or
  - (ii) on account of the unique characteristics of the specimen;
- (e) the Canadian Parks Service requires the specimen for display within a National Park in the Nunavut Settlement Area;
- (f) the condition of the specimen prohibits its movement; or
- (g) the specimen has previously been made available to, and is in the possession of, a party other than a federal or territorial government agency.

36.8.3 Where the agency referred to in Section 36.8.2 complies with a request by the Trust, the agency may attach any terms or conditions consistent with professional and institutional practice, including terms or conditions dealing with duration or termination of possession.

36.8.4 Where the Trust requests possession of an object mentioned in Section 36.8.2, but such object is currently in the possession of a party other than a federal or territorial government agency, the Trust

shall have priority over all other persons to obtain possession of the said object, subject to compliance with any conditions outlined in Sections 36.8.2 or 36.8.3.

#### PART 9: PLACE NAMES

36.9.1 The Inuit of the Nunavut Settlement Area have traditionally referred to various locations, geographic features and landmarks by their traditional Inuit place names. The official names of such places shall be reviewed by the Trust and may be changed to traditional Inuit place names in accordance with a process to be described in the Final Agreement.



ARTICLE 37: ETHNOGRAPHIC OBJECTS AND ARCHIVAL MATERIALS

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**ARTICLE 37: ETHNOGRAPHIC OBJECTS AND ARCHIVAL MATERIALS**

**PART 1: DEFINITIONS AND INTERPRETATION**

**37.1.1 In this Article:**

"ethnographic object" means an object made, modified or used by man and collected and documented for the interpretation and descriptive study of human culture;

"archival materials" means unpublished or unique material of a documentary nature which may shed light upon the past;

"Trust" means the Inuit Heritage Trust as referred to in Part 4 of the Archaeology Provisions.

**37.1.2 Nothing in this Article shall be interpreted so as to conflict with the Archaeology Provisions.**

**37.1.3 This Article shall apply to marine areas of the Nunavut Settlement Area.**

**PART 2: GENERAL**

**37.2.1 Negotiations leading to the Final Agreement shall address:**

(a) the role and needs of the Inuit Heritage Trust with respect to ethnography in the Nunavut Settlement Area; and

(b) consistent with Sub-section (a), the establishment and funding of appropriate training programs for

Inuit with respect to the conservation, maintenance, restoration, display and interpretation of ethnographic objects.

### PART 3: ETHNOGRAPHIC OBJECTS

37.3.1 The Canadian Museum of Civilization and any territorial government ethnographic agency shall endeavour at all times to lend a maximum number of ethnographic objects to institutions in the Nunavut Settlement Area such as the Inuit Heritage Trust.

37.3.2 Where the Trust requests the loan of any ethnographic objects originating in or relating to the Nunavut Settlement Area, and in the possession of a federal or territorial government ethnographic agency, including the Canadian Museum of Civilization and the Canadian Parks Service, such request shall not be refused unless:

- (a) the Trust is unable to maintain the object without risk of damage or destruction, including provision for climate control and security;
- (b) the Trust is unable to provide access to the object commensurate with scientific or public interest;
- (c) the agency is unable to lend the object because of a term or condition of its original acquisition from a non-governmental source;
- (d) the Canadian Museum of Civilization or territorial government agency requires the object

- (i) for its own active display or research, or,
- (ii) on account of the unique characteristics of the object;
- (e) the Canadian Parks Service requires the object for display within a National Park in the Nunavut Settlement Area;
- (f) the condition of the object prohibits its movement; or
- (g) the object has been previously lent to, and is in the possession of, a party other than a federal or territorial government agency.

37.3.3 Where the agency referred to in Section 37.3.2 complies with a request by the Trust, the agency may attach any terms or conditions consistent with professional and institutional practice, including terms or conditions dealing with duration or termination of the loan.

37.3.4 Where the Trust requests the loan of an object mentioned in Section 37.3.2, but such object is currently on loan to a party other than a federal or territorial government agency, the Trust shall have priority over all other persons to obtain a loan of the said object, subject to compliance with any conditions outlined in Sections 37.3.2 and 37.3.3.

**PART 4: ARCHIVAL MATERIALS**

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37.4.1 Where the Trust requests the loan of original archival materials relating to the Nunavut Settlement Area for display or exhibit, or copies of archival material for research or study purposes, from the Public Archives of Canada, the Canadian Museum of Civilization or any territorial government archival agency, such request shall be treated on at least as favourable a basis as similar requests from any other institutions.

## ADMINISTRATION AND OPERATION



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**ARTICLE 38: ENROLMENT**

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## ARTICLE 38: ENROLMENT

### PART 1: PRINCIPLES AND OBJECTIVES

38.1.1 These provisions:

- (a) recognize that Inuit are best able to define who is an Inuk for the purposes of this Agreement;
- (b) guarantee that the Inuit of the Nunavut Settlement Area will be recognized according to their own understanding of themselves, and that Inuit shall determine who is an Inuk for the purposes of this Agreement, and entitled to be enroled under this Agreement;
- (c) establish a process that is just and equitable for determining who is an Inuk for the purposes of this Agreement, and entitled to be enroled under this Agreement.

### PART 2: INUIT ENROLMENT LIST

38.2.1 A Designated Inuit Organization (DIO) shall establish and maintain a list of Inuit (the "Inuit Enrolment List"), and enrol thereon the names of all persons who are entitled to be enroled in accordance with this Article.

38.2.2 For the purposes of the Final Agreement, a person who is enroled on the Inuit Enrolment List shall be entitled to benefit from this Agreement so long as he or she is alive and his or her name is enroled thereon.

**PART 3: ENROLMENT CRITERIA**

38.3.1 Subject to Sections 38.3.3 to 38.3.5, a person who

- (a) is alive,
- (b) is a Canadian citizen,
- (c) is an Inuk as determined in accordance with Inuit custom or Inuit law,
- (d) identifies himself or herself as an Inuk, and
- (e) is associated with a community in the Nunavut Settlement Area or with the Nunavut Settlement Area,

is entitled to have his or her name enroled on the Inuit Enrolment List.

38.3.2 For the purpose of Sub-section 38.3.1(d), the guardian of a person who in consequence of legal disability is unable to identify himself or herself as an Inuk may identify that person as an Inuk.

38.3.3 No persons shall be enroled in this Agreement and any other Canadian aboriginal land claims agreement at the same time.

38.3.4 Persons who are entitled may transfer into this Agreement so long as they give up, for the duration of such transfer, their ability to benefit from or participate in the Canadian aboriginal land claims agreement out of which they are transferring. The DIO

shall determine the date upon which this provision comes into force with respect to beneficiaries or participants of any other land claims agreements.

38.3.5 An Inuk may choose, from time to time, not to be enroled under this Agreement.

#### PART 4: COMMUNITY ENROLMENT COMMITTEES

38.4.1 A Community Enrolment Committee (an "Enrolment Committee") shall be established in each community in the Nunavut Settlement Area.

38.4.2 The function of an Enrolment Committee is to decide whether a person meets the enrolment requirements of Part 3.

38.4.3 An interim Enrolment Committee shall be established for each community composed of not less than three and not more than six persons chosen by the Inuit elders of that community.

38.4.4 On or before the first anniversary of the date of the ratification of the Final Agreement, the interim Enrolment Committees shall complete their determination as to which persons are entitled to be enroled on the Inuit Enrolment List, and those persons shall be enroled by the DIO on the Inuit Enrolment List.

38.4.5 Upon completion of the work of an interim Enrolment Committee under Section 38.4.4, the persons from that community enroled on the Inuit Enrolment List shall structure, in a manner they deem fit, an Enrolment Committee for that community to operate thereafter.

#### PART 5: REVIEWING THE INUIT ENROLMENT LIST

38.5.1 Where an Enrolment Committee, interim or otherwise, is of opinion that a person does not meet the criteria established by Part 3 (the "said criteria"), before making a final determination it shall invite that person to make an oral or written representation to the Enrolment Committee as to why he or she meets the said criteria.

38.5.2 Where the Enrolment Committee, interim or otherwise, determines that a person does not meet the said criteria it shall upon request from that person give reasons for its determination.

38.5.3 Each Enrolment Committee shall periodically review its community's membership on the Inuit Enrolment List.

38.5.4 If an Enrolment Committee, interim or otherwise, determines that a person no longer meets the said criteria, his or her name shall be removed from the Inuit Enrolment List.

#### PART 6: APPEALS

38.6.1 Where an Enrolment Committee, interim or otherwise, determines that a person does not meet the said criteria, that person may appeal to the Nunavut Enrolment Appeals Committee (the "Appeals Committee") against that determination.

38.6.2 The Appeals Committee shall be established to hear and determine an appeal from a person whom the Enrolment

Committee determines does not meet the said criteria.

- 38.6.3 The Appeals Committee shall consist of a standing list of members from each of the three regions.
- 38.6.4 Each regional Inuit association shall appoint one person from each community to the standing list.
- 38.6.5 The members of the standing list from each region shall elect from among their number a member who shall be a co-chairperson of the Appeals Committee.
- 38.6.6 The co-chairperson of the region of an appellant shall select another Committee member from that region, and a co-chairperson from one of the other regions, and the said co-chairpersons and that member shall hear and determine the appeal.
- 38.6.7 An appeal to the Appeals Committee shall be by way of a re-hearing and the appellant may adduce such further evidence as may be allowed by the Appeals Committee.
- 38.6.8 Where the Appeals Committee dismisses an appeal, it shall upon request by the appellant give reasons for its decision.
- 38.6.9 Where a person appeals to the Appeals Committee as to a decision of an interim Community Enrolment Committee, the Appeals Committee shall hear and determine the appeal on or before the second anniversary of the ratification of the Final Agreement.
- 38.6.10 Every order, decision or ruling of the Appeals Committee is final and conclusive and shall not be

questioned or reviewed in any court of law.

38.6.11 Notwithstanding anything in Section 38.6.10, an order, decision or ruling of the Appeals Committee may be reviewed on the grounds that it failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction.

38.6.12 The Appeals Committee may establish rules for conducting its proceedings including the use of teleconferencing, and written submissions in place of hearings, and time limits for making an appeal.

38.6.13 In no case may a member of an Enrolment Committee, interim or otherwise, be a member of the Appeals Committee.

38.6.14 The provisions of Section 38.6.3 to 38.6.6 may be altered by a majority vote of the Enrolment Committees.

#### **PART 7: LANGUAGE OF COMMITTEES**

38.7.1 All proceedings of the Enrolment Committees, interim or otherwise, and the Appeals Committee shall be in Inuktitut and, at the request of a member of a Committee or of the applicant, in one or both of Canada's official languages.

#### **PART 8: PUBLICATION OF INUIT ENROLMENT LIST**

38.8.1 Each Enrolment Committee, interim or otherwise, shall make available to the public without charge a list

containing the names of persons enroled on the Community Enrolment List.

38.8.2 The DIO shall annually provide a free copy of the Inuit Enrolment List to the Government of Canada and to the Territorial Government, and shall make the Inuit Enrolment List available to a member of the public on request.

#### **PART 9: IMPLEMENTATION**

38.9.1 The Government of Canada shall pay all expenses incurred for the establishment and work of the interim Enrolment Committees, and the work of the Appeals Committee, until the second anniversary of the Final Agreement. A budget and implementation plan shall be discussed prior to the Final Agreement.

38.9.2 The DIO shall be responsible for co-ordinating the enrolment procedures set out in these provisions and permanently maintaining a complete and up-to-date Inuit Enrolment List.

#### **PART 10: AMENDMENTS**

38.10.1 Notwithstanding any provisions pertaining to the amendment of the Final Agreement, the DIO may not consent to an amendment of these provisions without the consent of all the Enrolment Committees.

#### **PART 11: SAVING**

38.11.1 It is the position of the Inuit that one of the fundamental aboriginal rights that Inuit possess is the



right to define who is an Inuk. This is without prejudice to the Government's position of what is encompassed in Section 35(1) of the Constitution Act, 1982.

ARTICLE 39: RATIFICATION

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ARTICLE 39: RATIFICATION

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PART 1: AGREEMENT STAGE

39.1.1 After initialling the Agreement, the Chief Negotiators of the parties shall seek ratification.

39.1.2 In the case of the Tungavik Federation of Nunavut (TFN), the ratification of the Agreement will be by decision of the full TFN Board of Directors following a special general meeting as soon as possible after initialling. Ratification by the Board of Directors shall be based on the approval of the Agreement by each region of the Nunavut Settlement Area.

39.1.3 In the case of the Government of Canada, ratification will be by decision of Cabinet as soon as possible after the initialling of the Agreement and ratification by TFN.

39.1.4 Once the Agreement is ratified by both TFN and the Government of Canada, the Agreement will be made public and the parties shall continue negotiations in good faith towards a Final Agreement based on the Agreement.

PART 2: FINAL AGREEMENT STAGE

39.2.1 Once a Final Agreement is reached by TFN and government negotiators, TFN will hold a ratification vote as soon as possible.

39.2.2 The vote referred to in Section 39.2.1 will be consistent with the following:

- (a) there will be a secret ballot;
- (b) voters must be 16 years of age or older;
- (c) voters lists, satisfactory to both parties will be prepared based on existing government data, bearing in mind Part 3 of the Enrolment Provisions;
- (d) voters lists will be posted in each of the communities at least three weeks prior to the vote;
- (e) there will be an appeal process to deal with complaints concerning the voters lists;
- (f) the vote shall occur on the same day except for advanced polls or where circumstances require an alternate day; and
- (g) the Government of Canada shall assume the cost of the ratification vote within an agreed upon budget.

39.2.3 Ratification of the Final Agreement will be decided on the basis of majority of eligible voters in each of the Kitikmeot, Keewatin and Baffin regions of the Nunavut Settlement Area.

39.2.4 Ratification by the Government of Canada shall be by the approval of Cabinet and the enactment of a statute by Parliament.

39.2.5 The parties will further refine the ratification process for a Final Agreement for inclusion in the Final Agreement.



ARTICLE 40: IMPLEMENTATION

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PART 2	Working Group . . . . .	360





## ARTICLE 40: IMPLEMENTATION

### PART 1: GENERAL

40.1.1. The Final Agreement shall:

- (a) specify the roles and responsibilities of Designated Inuit Organizations (DIOs), the Government of Canada, and the Territorial Government for implementing the Final Agreement;
- (b) identify target and completion dates for implementation of provisions of the Final Agreement;
- (c) identify who will bear the costs of implementing the Final Agreement; and
- (d) require the preparation of a report annually to Inuit and to Parliament on the implementation of the Final Agreement.

40.1.2. The parties shall negotiate a detailed implementation plan. The implementation plan shall:

- (a) identify the activities required to implement the Final Agreement;
- (b) identify who is responsible for carrying out particular activities and the time-frames for the tasks;
- (c) identify the costs of implementing the Final Agreement and specific funding arrangements;



- (d) survey federal and territorial legislation which applies to the Nunavut Settlement Area and identify the need for new legislation or amendments to existing legislation to implement the Final Agreement, providing information on regulatory impacts;
- (e) identify employment opportunities and training needs for Inuit to participate effectively in the implementation and management of the Final Agreement;
- (f) include a communication and education strategy to inform all interested parties of the implementation and content of the Final Agreement;
- (g) specify how implementation of the Final Agreement will be monitored;
- (h) specify how the implementation plan will be reviewed and amended;
- (i) address other matters as agreed to by the parties.

40.1.3 The implementation plan will be appended to, but will not be part of, the Final Agreement.

#### PART 2: WORKING GROUP

40.2.1. In order to achieve an implementation plan by the time the Final Agreement is ratified, TFN, the Government of Canada, and the Territorial Government shall nominate persons, and alternates to act in the absence of the

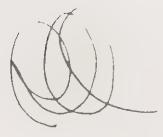
nominated persons, to participate in a working group and to delegate authority to those individuals to act on its behalf. Each participant can call upon technical expertise as required. The working group shall be established within one month of the signing of the Agreement.

40.2.2. The working group shall report periodically to the parties at the main negotiation table. Issues upon which the group cannot reach agreement shall be referred to the main negotiating table for resolution. The implementation plan must be approved by the parties at the main table before it is appended to the Final Agreement.

40.2.3. The participants shall be responsible for their own expenses arising from their participation in the working group.

40.2.4. The working group shall develop an overall work plan identifying tasks which need to be completed in order to draft an implementation plan.





## ARTICLE 41: ARBITRATION

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## ARTICLE 41: ARBITRATION

### PART 1: GENERAL

#### Board to be Established

41.1.1 An Arbitration Board (the "Board") shall be established to resolve disputes submitted to it in accordance with this Article.

41.1.2 The Board shall have nine members, including a chairperson and a vice-chairperson.

41.1.3 The Government of Canada, the Territorial Government and the Designated Inuit Organization (DIO) will consult and attempt to reach consensus as to the persons to be appointed by them jointly to the Board. Of the members appointed to the Board, there shall be at least one member from each of the Kitikmeot, Keewatin and Baffin regions of the Nunavut Settlement Area.

41.1.4 If a consensus is not reached under Section 41.1.3 within one year of the date of the ratification of the Final Agreement, the Government of Canada, the Territorial Government, and the DIO shall each appoint three members. The DIO will ensure that the Board contains at least one member from each of the three regions of the Nunavut Settlement Area.

41.1.5 The term of appointment of a member of the Board shall be for five years and a member shall be eligible to be re-appointed.

### Jurisdiction

41.1.6 An arbitrator shall have jurisdiction to arbitrate in respect of:

- (a) any matter concerning the interpretation or implementation of the Final Agreement where the parties agree to be bound by the decision; and
- (b) matters specifically designated in other Articles for resolution by arbitration, including
  - (i) restrictions on harvesting access (Section 5.33.4 of the Wildlife Provisions),
  - (ii) Government access to Inuit Settlement Lands (Sections 23.4.4 and 23.4.8 of the Entry and Access Provisions),
  - (iii) commercial access across Inuit Settlement Lands (Section 23.6.14 of the Entry and Access Provisions),
  - (iv) expropriation of Inuit Settlement Lands (Section 23.8.8 of the Entry and Access Provisions),
  - (v) exchange of lands for carving stone (Section 20.5.3 of the Title to Inuit Settlement Lands Provisions), and
  - (vi) exchange of Inuit Settlement Lands for abandoned Municipal Lands (Sub-section 14.8.3(d) of the Municipal Lands

Provisions).

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### Rules and Procedures

41.1.7 The Board may establish rules and procedures for the conduct of references under this Article.

41.1.8 It is intended that the process of arbitration will resolve disputes submitted to it in an informal and expeditious manner.

41.1.9 A reference shall be heard and determined by an arbitrator or panel selected from among members of the Board, as follows:

(a) one arbitrator, if agreed to by the parties to the arbitration; or

(b) two or more arbitrators (to be known as a panel), selected by each of the parties to the arbitration, and a chairperson to be agreed upon by the arbitrators, the said chairperson to be selected from the members of the Board; failing agreement, the chairperson shall be appointed by a judge pursuant to the Arbitration Act, (NWT), but in such case the judge may appoint any person as a chairperson as he or she thinks fit.

41.1.10 An arbitration shall be initiated by a reference to arbitration filed with the Board by any party to a submission. The reference shall name the other party to the dispute, set out the nature of the dispute, a summary of the facts, describe the issue to be arbitrated, name an arbitrator from the Board and

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describe the relief sought.

41.1.11 Within 30 days of being notified by the Board of a reference to arbitration, the other party to the dispute shall file a reply responding to the reference, agreeing to the arbitrator named in the reference or naming its arbitrator from the Board and describing any relief sought.

41.1.12 The arbitrator may, on application, allow any person to participate in an arbitration as an intervenor, if in the arbitrator's opinion the interest of that person may be affected by the arbitration, and on such terms as the arbitrator in its discretion may order.

41.1.13 The arbitrator shall have jurisdiction to determine all questions of fact, and to make an award, including interim relief, and costs; but no costs shall be awarded against the DIO in any arbitration within Section 41.1.6 where the arbitrator upholds the decision of the DIO.

41.1.14 If an arbitrator makes no decision as to costs, each party to an arbitration shall bear its own costs and its proportionate share of the other costs of the arbitration, including the remuneration and expenses of the arbitrator.

41.1.15 Notwithstanding Section 41.1.14, the parties shall not bear the costs of the arbitrator in any expropriation proceeding where such costs are normally paid by Government.

41.1.16 In the absence of a majority decision, the decision of the chairperson shall prevail.

41.1.17 The decision of an arbitrator is final and binding and is not subject to appeal, but the decision may be reviewed by the Supreme Court having jurisdiction in the Nunavut Settlement Area for an error of law or excess of jurisdiction.

41.1.18 The Arbitration Act, (NWT) shall apply to any arbitration to the extent that it is not inconsistent with these provisions.

41.1.19 The Board shall maintain a public file of arbitration decisions.

41.1.20 Except in respect of disputes arbitrated under these provisions, nothing in these provisions affects the jurisdiction of any court.

41.1.21 Appointments by the Government of Canada under these provisions shall be made by order of the Minister of Indian Affairs and Northern Development. Appointments by the Territorial Government shall be made by order of a Minister designated by it.

41.1.22 Any staff of the Board shall be provided by Government and any office of the Board shall be in the Nunavut Settlement Area. The Board shall prepare an annual budget, subject to review and approval by Government. The approved expenses of the Board shall be borne by Government.

**PART 2: INTERPRETATION**



41.2.1 In this Article, where the context requires, "arbitrator" includes a panel.

#### PART 3: TRANSITIONAL

41.3.1 Until the Board is established, the Arbitration Act, (NWT) applies to any arbitration described in Section 41.1.6.

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## ARTICLE 42: INUIT ORGANIZATIONS

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## ARTICLE 42: INUIT ORGANIZATIONS

### PART 1: GENERAL

42.1.1 Where, in any Article of the Agreement, except for this Article, there is a reference to a Designated Inuit Organization or DIO, such reference shall be deemed always to be a reference to Inuit.

42.1.2 TFN undertakes to cause to be established such DIOs as are necessary to give effect to the Articles wherein they are identified.

42.1.3 Inuit have the right to delegate to a DIO all such powers, rights and duties acquired by way of the Agreement on such terms and conditions as to them seem appropriate. Such delegation will in all cases be revocable provided that such revocation is exercised in good faith.

42.1.4 A DIO exercising the powers, rights and duties delegated to it further to Sections 42.1.3 and 42.1.5 from Inuit shall, when so exercising the said powers, rights and duties, be deemed to be acting as a principal and not as an agent of Inuit. To the extent required, this section will be given further effect in a manner to be agreed to by the parties in the course of negotiation of the General Provisions of the Final Agreement.

42.1.5 TFN on behalf of Inuit, and Inuit insofar as it is legally competent for them to do so, undertake to delegate to the DIOs mentioned in Section 42.1.2 those powers, rights and duties as are necessary to give

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effect to the provisions of the said Articles.

42.1.6 Notwithstanding anything contained in Section 42.1.2, where in any Article there is a reference to a DIO, the Final Agreement shall substitute for such reference an organization or entity as if such organization or entity originally appeared in such Article.

42.1.7 DIOs shall not be restricted to exercising the powers, rights and duties delegated to them pursuant to Sections 42.1.3 and 42.1.5.

42.1.8 The DIOs mentioned in Section 42.1.2 shall be constituted and operate with a maximum degree of accountability and democratic control to and by Inuit.

42.1.9 The DIOs mentioned in Section 42.1.2 shall be subject to laws of general application except as otherwise expressly provided for herein or in the Final Agreement.

OTHER ABORIGINAL PEOPLES



ARTICLE 43: OTHER ABORIGINAL PEOPLES

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**ARTICLE 43: OTHER ABORIGINAL PEOPLES**

**PART 1: GENERAL**

43.1.1 Provisions in respect of any overlapping interests between the Tungavik Federation of Nunavut (TFN) and other aboriginal peoples shall be set out in the Final Agreement.

43.1.2 Government acknowledges the position of TFN that the following topics may be linked insofar as they relate to overlapping interests:

- (a) delineation of the Nunavut Settlement Area;
- (b) surrender of aboriginal title; and
- (c) constitutional protection of Canadian aboriginal land claims agreements.

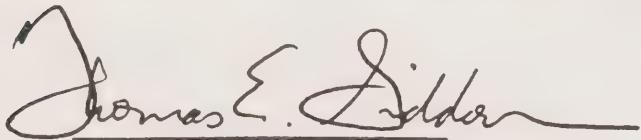


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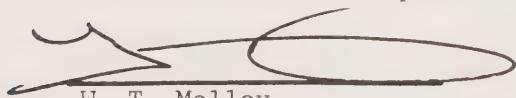


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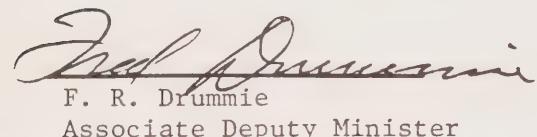
On behalf of the Government of Canada



The Honourable Thomas E. Siddon  
Minister of Indian Affairs  
and Northern Development



W. T. Molloy  
Chief Federal Negotiator

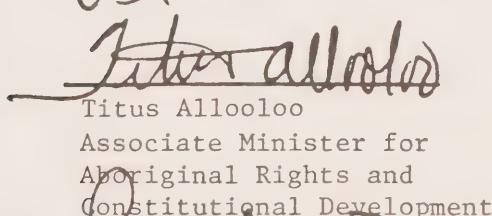


F. R. Drummond  
Associate Deputy Minister

On behalf of the Government of the  
Northwest Territories



Dennis Patterson  
Government Leader



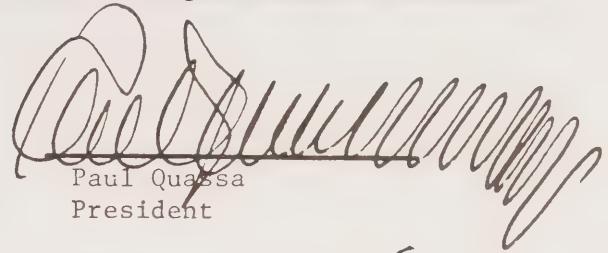
Titus Allooloo  
Associate Minister for  
Aboriginal Rights and  
Constitutional Development



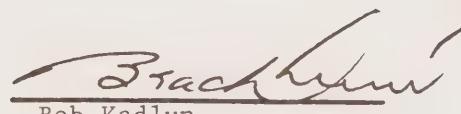
Ross McKinnon  
Senior Negotiator

FOR THE INUIT OF THE NUNAVUT SETTLEMENT AREA:

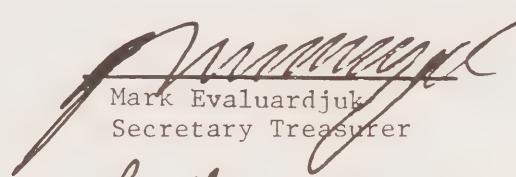
On behalf of the Tungavik Federation of Nunavut



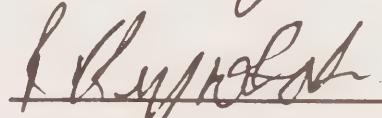
Paul Quassa  
President



Bob Kadlun  
Vice President



Mark Evaluardjuk  
Secretary Treasurer



Pauloosie Keyootak  
TFN Board Member



Charlie Lyall  
TFN Board Member



Louis Pilakapsi  
2nd Vice President



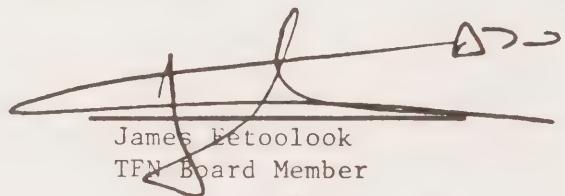
Pudloo Mingeriak  
TFN Board Member

FOR HER MAJESTY IN RIGHT OF CANADA:

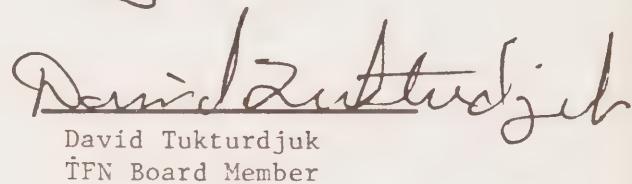
On behalf of the Government of Canada

FOR THE INUIT OF THE NUNAVUT SETTLEMENT AREA:

On behalf of the Tungavik Federation of Nunavut



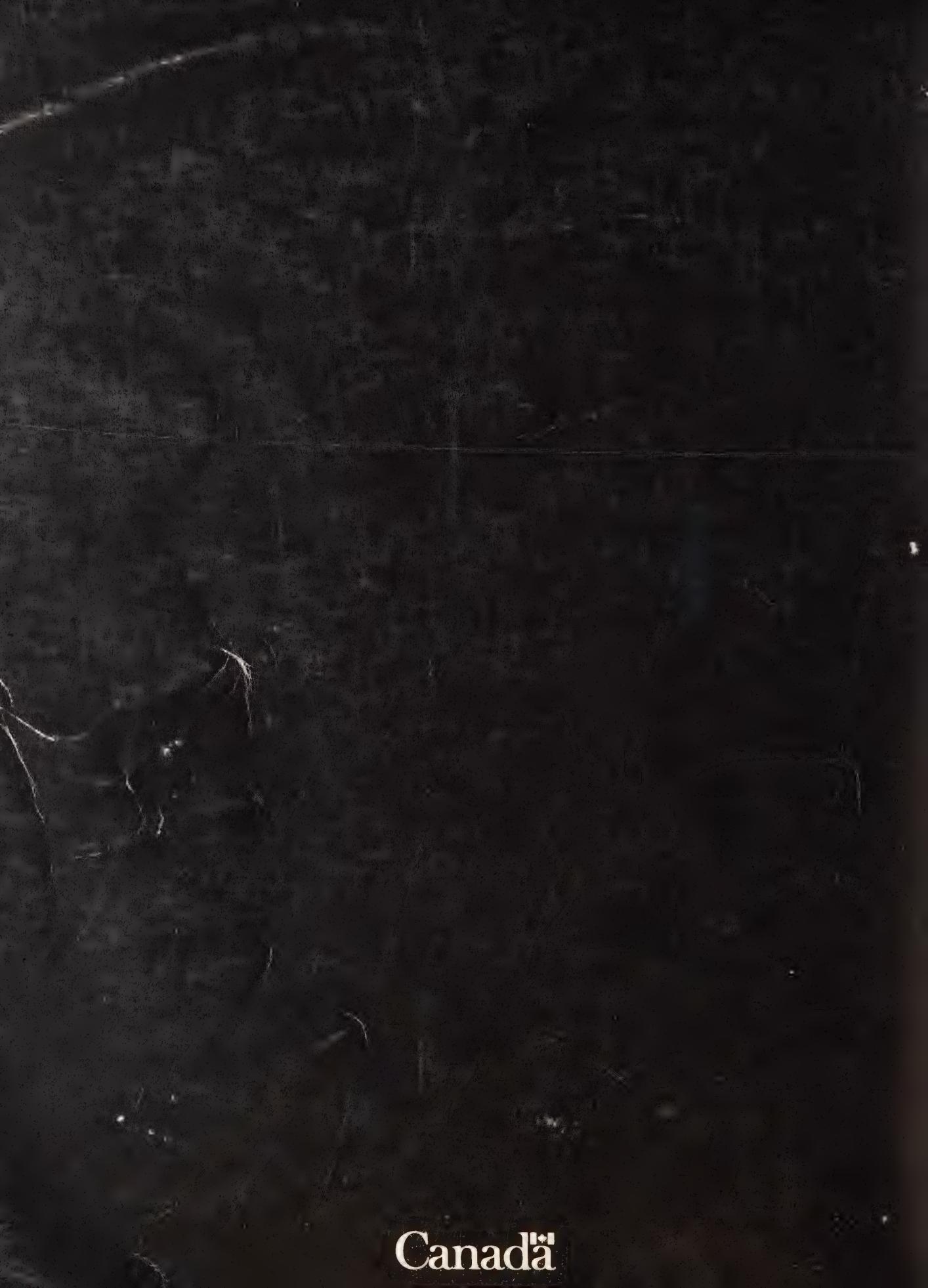
James Petoolook  
TFN Board Member



David Tukturdjuk  
TFN Board Member

On behalf of the Government of the  
Northwest Territories



A dark, moody landscape photograph of a forest at night. The scene is mostly in shadow, with a bright, glowing star visible in the upper left corner. The foreground is dark and textured, suggesting a path or a clearing in the forest.

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